HOUSE OF ASSEMBLY

Tuesday 25 September 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 11 a.m. and read prayers.

LEGAL PROFESSION BILL

Adjourned debate on second reading.

(Continued from 12 September. Page 804.)

Mrs REDMOND (Heysen): I indicate that I am the lead speaker for the opposition in relation to this bill, and also that, whilst we support the bill, we will in due course in committee move some amendments, and we will reserve our position on one existing clause of the bill.

It is actually with a great deal of sadness that I rise to support this bill, because my view is that this legislation will signal the end of the operation of the legal profession in this state as we have known it. I have been a proud practitioner in this state and, in my view, this bill brings us into a situation where we will shortly have Woolworths and Coles law firms. Just as Woolworths and Coles are taking over the operation of all the supermarkets, petrol stations and liquor licensing and they would like to get their hands on pharmacies, the effect of this bill will be that there will be nothing to prevent Woolworths, Coles, or any other multinational corporation, setting up law practices as long as there is one partner who is an Australian legal practitioner.

So, a number of the comments I make will be focused on that sort of aspect, and some of the comments I make will be focused on the point of view that I spent the last eight or nine years prior to coming into this place as a sole practitioner in general practice. It saddens me that I think we will no longer see sole practitioners in general practice. It certainly indicates to me that, no matter what my political future might be, it is highly unlikely that I will ever return to the practice of the law. So, it is with considerable sadness that I come into this place today to lead the opposition debate on this question.

The bill seeks to nationalise our profession, and that has come about since when the Liberals were in government back in 2001. The group known as SCAG (Standing Committee of Attorneys-General) got together and agreed that it was appropriate to move to a national regime. My belief is that that is largely driven by national firms and, indeed, it is indicated that national firms want to have the ability to run their trust accounts using a single software system. So, it will be of great benefit to those large firms and a huge disbenefit, in terms of the degree of regulation, for the small firms like the one I used to run, and the ones with which I have mostly associated.

As I said, in 2001 the members of the Standing Committee of Attorneys-General agreed that they would attempt to nationalise the profession and bring everyone into line. That led to considerable debate about what that regime should look like because, with each state having different things (just as when we had our constitutional conventions in the 1880s and 1890s, leading to the Federation of Australia), everyone had their own view as to how best to protect the interests of those in their state and as to what was good about what operated in their state as opposed to anyone else's state. It took some years before they reached a position of mutual agreement.

What ultimately happened was that the Standing Committee of Attorneys-General reached a point of agreement and entered into a memorandum of understanding in relation to what this new national scheme would look like. This bill, which was introduced by the Attorney on either 12 or 13 September, is 255 pages long. It has 515 clauses, plus a schedule of transitional provisions.

The Hon. M.J. Atkinson: We had a week's break.

Mrs REDMOND: The Attorney interjected that we had a week's break, and that is indeed the case. I rang his chief of staff on the day the bill was introduced and sought a briefing. In due course that briefing was scheduled for Wednesday of last week, and I attended here for two hours. During that briefing we got almost halfway through consideration of the bill, and I came back in on Thursday for a further 2½ hours of briefing. At that stage, of course, we still had not reached one of the crucial elements of the bill, and that was the issue of which parts of this bill were in which tier of the memorandum of understanding, because this memorandum of understanding into which the Standing Committee of Attorneys-General had entered identified that certain provisions were absolutely central, and they were to be known as core provisions. Some of them were core uniform provisions; that is, they had to be not only central to the bill but they also had to be worded in the same way in each state. Then there were core non-uniform provisions—that is, they were central but they did not have to be worded in the same way from state to state—and then there were the non-core provisions.

In fact, on Friday afternoon at about 10 to 5, when I went to my office, there was a 330-page email identifying, in the body of a reprint of the bill, which clauses fell into which category. I then had the task of trying to figure out what that meant—and, indeed, I colour-coded the index so that I had some idea of where the core provisions, the non-core provisions and the core but non-uniform provisions were. That in itself was a considerably time-consuming exercise given that, as I said, it only arrived in the form of a 330-page email on Friday afternoon.

The government has introduced this bill with what I consider to be indecent haste, given that we all know that the intention is to introduce the new regime from 1 January next year. The government has known about it for some time and could have introduced it earlier. However, having introduced it only in the previous sitting week, it now wants to complete the debate on it today. This is a 515-clause bill, which will have a profound effect on the way in which lawyers will be practising, and I do not think that is a particularly nice way to go about the business of being in government.

So, we have this bill and, indeed, we have now identified which are the core uniform provisions, which are the core non-uniform provisions and which are the non-core provisions. When I went through the index, I discovered that there were, indeed, some sections in the bill that do not have any classification, according to the document that was sent to me. Some of those are crucial, particularly the clause dealing with the imposition of levies. There are also clauses in here that reflect what is already in the existing Legal Practitioners Act, under which we have satisfactorily operated this profession since 1981—roughly the past 25 years. The impetus for this is coming from big business and in the 1980s we lost focus about being a profession and some people became more involved in the business side of being a lawyer than in the practice of what was an excellent profession.

The core uniform provisions and the core non-uniform provisions are only part of a memorandum of understanding entered into by this Standing Committee of Attorneys-General. So I was somewhat surprised yesterday to receive an email from the president of the Law Society. She had seen in *The Australian* an article or two about the fact that we intend to move some amendments, which I will come to in due course, in respect of the guarantee fund and its operation and the way in which it has failed to pay money rightfully due to the clients of the former Adelaide firm Magarey Farlam. For those who are not aware, the accountant who worked for that firm defrauded the trust account of some $4.5 million, and for some years now the clients whose money was taken have not had it returned to the them through that solicitor's trust account. If most of the community were aware that they could have money in a solicitor's trust account just taken from them fraudulently and not have it replaced by the guarantee fund, I am sure they would be very upset.

What surprised me about the letter from the Law Society yesterday was that the President wrote to me and said:

> As I understand it, your proposals are that the guarantee fund be a fund of first resort.

It is certainly the case that we intend to move amendments to say that, from now on when people lose money out of a trust account run by a solicitor's office, they will be able to go to the guarantee fund, which can then reimburse them and it can then take whatever action under subrogated rights to get money back from whoever may have been in the wrong, if possible.

Mr Hanna interjecting:

Mrs REDMOND: As the member for Mitchell says, it is what the fund is for, and I am sure most lawyers in practice believe that that is what their money is being put towards. The guarantee fund itself comes from money put into solicitors' trust accounts, for reasons that I will come to later in this debate. The money earns interest, but that interest is not paid to the clients whose money is in the trust account but rather it goes into a central fund, where it is pooled and that creates the guarantee fund. Not only is it reasonable but the whole insurance policy fund is actually there because of the money that is notionally the money that belongs to clients of the law firms, but the guarantee fund has until now said that it will not pay out. People have to chase the partners, and no doubt the partners would join the bankers, the auditors, the insurers and everyone else. I know of people who have already spent up to $100 000 in legal costs chasing what was their money in a solicitor's trust account. That is a nonsense and we will seek to address it and correct it in the course of this bill passing through this place.

What surprised me about the letter from the President of the Law Society is that she said:

> The clauses of the draft bill relating to the guarantee fund are core non-uniform provisions, which means that, while the detail of the legislative language can have a local flavour, the intent of the national model legislation must be retained.

What surprised me about that was that I would have thought that the President of the Law Society would understand that a memorandum of understanding is nothing more than that. It is not justiciable: it is simply an agreement among the attorneys-general to attempt to bring in what they have agreed to in their committee. They cannot usurp the supremacy of this parliament or any other parliament.

I know that, on occasions in this house, the member for Enfield has joined with me in questioning this idea that, as ministers, people can go off to meetings with other ministers around the country and come back with an agreement that in some way binds this parliament. This parliament is the master of its own destiny and this parliament will decide whether it agrees to the terms of a document such as the terms of the Legal Profession Bill.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Needless to say, I have written back to the President of the Law Society pointing out her misapprehension about the supremacy of the parliament and its right to decide whether it will accept what has been proposed by this standing committee of attorneys-general. Certainly it is proposed and it has the endorsement of the Law Society. I would have to say that, from my discussions with the practitioners with whom I have spoken, the Law Society has conducted some information sessions and it has always done so from the point of view of endorsing this legislation and, in my view, it certainly has not undertaken the task of really seeking feedback on what the impact of this legislation will be on the practitioners who are working in the field and who are trying to run often quite small businesses and often on small margins. I know that the Attorney-General, having not practised, might not appreciate that they are small margins. I know that the Premier certainly thinks that all lawyers earn millions of dollars, live in the leafy eastern suburbs and drive BMWs.

I ran a very small general practice in the suburbs on my own, with no other practitioner, and I made every effort to do the right thing by my clients in terms of the costs that they were charged. I tried to charge only those costs recommended by the scale, which is similar to finding a doctor who charges the Medicare rebate and bulk bills. It meant that not only did I have a lot of work but I also did not make as much money as I might have out of legal practice. Nevertheless, I was practising the profession in the way I believed it should be practised and I do not regret that. I simply regret what will happen now as we come through this new regime. As I said, the bill has 515 clauses. I intend to examine the bill in great detail, given that I have not had a chance to examine it in great detail until now. Now that I am on my feet, members will have to put up with that.

For the most part, a number of the definitions are those areas that are called 'core uniform provisions'; that is, the definitions will now be standardised throughout the various states. I can see some benefit in some of that because different states use different terminology and it is sometimes useful to at least use the same terminology. Things such as 'admission to the legal profession' will now have a specific definition and mean admission to the Supreme Court as a lawyer, a legal practitioner, a barrister, a solicitor, or a barrister and solicitor, or a solicitor and barrister. I do not know why we have both 'a barrister and solicitor' and 'a solicitor and barrister'. One can only presume that, in another state, they spoke about those two professions where they were fused as being in the reverse order.

I would have thought that a barrister and solicitor is the same as a solicitor and a barrister. However, specifically, admission to the legal profession is defined as not including the 'grant of a practising certificate under this act or a corresponding law'. That then brings us onto some of these other definitions, and 'Australian lawyer' has a definition all its own. A definition of 'Australian lawyer'—which is set out in clause 4 of the bill—is basically anyone who is admitted to the practice of law anywhere in Australia in any of the states or territories, that is, into a Supreme Court. An

'Australian lawyer' is then divided into two sorts of an Australian lawyer. You can either be a local lawyer, which is someone who is admitted to the practice of the law in the State of South Australia, or you can be an interstate lawyer, that is, a person who is admitted to the practice of the law in another state but not in this state.

We then get onto 'Australian legal practitioner', which, again, is a slightly different creature. First, you are admitted as a practitioner by signing the roll effectively in the Supreme Court of each state or a state. You can then become an Australian legal practitioner by having become an Australian lawyer, then obtaining a local practising certificate (that is, a practising certificate to allow you to practise in a state), or being an interstate legal practitioner (that is, an Australian lawyer who holds a current practising certificate but from another state). The practising certificate is a little like taking out insurance on your car. When you take out your registration on your car you pay a relatively small amount for the actual registration and quite a large amount for the insurance which sits behind it and without which you are not allowed to get your registration.

The same thing happens in obtaining a practising certificate. It is a relatively small amount—in fact, I think that, when I was in practice, it was only about $99 or $100 for the actual licence to practise but you had to pay a compulsory amount of insurance. When I was practising—which was five years ago—that amount was around $3 500 for a straightforward and normal practice, and you could then add onto that according to what risky areas of practice in which you might engage, and so it could be considerably more. I understand that, for the most part, it is still around the $4 000 mark in South Australia.

Indeed, my understanding is that, in terms of this whole national approach, one of the sticking points has been the fact that South Australia has had very low costs compared with some other states in terms of that whole insurance aspect of being allowed to practise. If you are an Australian lawyer you get your practising certificate and then you become an Australian legal practitioner; and, again, you can be a local legal practitioner or an interstate legal practitioner.

Before I go back to the definitions, I will quickly look at the terms relating to associates and principals of law practices. I found that a peculiar definition because it talks about the term 'associate'. Generally in a legal practice an associate is simply someone who is an employee of the legal practice. So, there would be partners and associates, and those who became senior would not surprisingly be called senior associates and often announced as such in the Law Society's bulletin, and so on. However, an associate generally is a person employed by the legal practice. This definition states:

> For the purposes of this act, an associate of a law practice is—
> (a) an Australian legal practitioner. . .

so, someone who has their practising certificate as well as being enrolled as a lawyer—

> . . . who is—
> (i) a sole practitioner. . .

I thought that was rather odd. As Isobel Redmond & Co. (which was the name of my firm when I ran it), I would be an associate of my own practice.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: The Attorney-General asks whether I had any partners. I was a sole practitioner. It means I would be an associate of Isobel Redmond & Co. It strikes me as an odd way to define things. It continues:

> (ii) a partner in the law practice (in the case of a law firm); or
> (iii) a legal practitioner director in the law practice (in the case of an incorporated legal practice); or
> (iv) a legal practitioner partner in the law practice (in the case of a multi-disciplinary partnership); or
> (v) an employee of, or consultant to, the law practice.

It is confusing to think that all those people now would be called an 'associate' of a law practice. It strikes me as odd that I would have to become an associate of my own business. It continues:

> (b) an agent of the law practice who is not an Australian legal practitioner; or
> (c) an employee of the law practice who is not an Australian legal practitioner; or
> (d) an Australian-registered foreign lawyer who is a partner in the law practice; or
> (e) a person (not being an Australian legal practitioner) who is a partner in a multi-disciplinary partnership; or
> (f) an Australian-registered foreign lawyer who has a relationship with the law practice, being a relationship that is of a class prescribed by the regulations.

I do not know what will be prescribed in the regulations, but that strikes me as a fairly unusual definition of what we have commonly understood by the term 'associate'. I think it will be some time before we get to a point under the new national regime where we can actually understand a lot of these things. While they sound quite straightforward, in some ways they are changing what we have commonly used as our terminology so it will take a long time for us to settle down into using these new terms.

One of the other definitions which caught my eye was that of 'affairs'. The bill provides:

> (a) all accounts and records required under this act or the regulations to be maintained by the practice or an associate or former associate of the practice;
> (b) other records of the practice or an associate or former associate of the practice;
> (c) any transaction—
> (i) to which the practice or an associate or former associate of the practice was or is a party; or
> (ii) in which the practice or an associate or former associate of the practice has acted for a party.

I think that definition is so broad that it opens up all the documentation (of whatever nature) within a practice. I have some significant concerns about the impact of that situation occurring. Under the existing Legal Practitioners Act there is always the opportunity for the Law Society to examine the books. Indeed, it did that regularly—so regularly, in fact, that before I finished in practice I eventually objected to its doing that. In the case of my firm, the books were not kept on a software system. My books were a hard copy book kept by my secretary and me, so that I had a hands-on approach to how I managed my trust account. That trust account never had 5¢ not accounted for. There was never any misappropriation of funds or anything like that. I took a lot of time to ensure that it was all okay and accounted for.

What this new definition does is allow the Law Society to broaden the scope of what it is looking for, and we will come to that provision in due course. I have no great trust of the Law Society. The people there now assure me that those undertaking what used to be called an internal audit (which became known as an inspection and will now be called an investigation of the accounts) are very well qualified and undertake their duties with a great deal of diligence. I have no doubt that that is the case.

However, I have to say that I had serious reason to question their motive when they attended my office because, in the few years I was in practice, I had a surprising number

of audits undertaken—not because there was any suggestion that there was ever any money missing. My belief is that, in fact, it was a nice junket to come to Stirling and examine a set of books which were very easy to access, very easy to understand and quite limited, because I would only occasionally have a probate, when money would come in from an estate and be paid out, or a conveyance, when money would come in from the sale of a house and be paid out. So, I had quite straightforward transactions.

Eventually, I formed the view that I was being targeted for these supposedly random investigations of my trust account simply because a day trip to Stirling was a very nice junket: they could spend a pleasant day, tick another box saying that they had done another audit, and there was never any difficulty about it. What used to annoy me was that, at the very same time this was occurring, I was acting in matters where solicitors had defrauded a trust account and run off overseas with clients' funds. I was with the police fraud squad going through the files and figuring out what they had done wrong, whether they had done anything that was legitimate, whether they could legitimately charge any costs and so on.

I knew that they were not targeting the people who perhaps should have been targeted. I also knew that they were not targeting many of the big firms, which had very complex and often computerised systems and where it was far more likely the problems would arise. Before I finished my practice, when they last notified me of their intention to audit my trust account books, I got to the point of saying that I would allow them to come into my office only when they had satisfied me that they had indeed audited everyone else in the state as often as they had audited me. There was no reason that I should be audited in the way I was, yet it happened time and again. As I said, my view was that they could simply say, 'That's one job done,' and tick a box. Getting their quota of how many audits they had completed was what it was about; it was not about any of the other issues.

However, I digress somewhat, as I was talking about the definition of 'affairs', which broadens markedly what the Law Society will be able to examine, and we will come in due course to some of the other areas that it will get into. It will certainly have much broader powers, simply because the definition of 'affairs' is so broad. My view is that it will increase the scope of the work done by the society. It is likely to become a bigger and more costly organisation to run than it has ever been in this state until now, and I think that it will be much more bureaucratic and less in touch with its practitioners than has been the case until now.

The bill includes a definition of 'Australian registered foreign lawyer', which means a locally registered foreign lawyer or an interstate registered foreign lawyer, and in due course we will come to the provisions relating to foreign lawyers because, indeed, a whole section in the bill deals just with foreign lawyers. We will come to it in due course.

Under part 6, 'Legal practice—foreign lawyers', we go through from clause 126 to the end of at least clause 148, dealing with the practice of foreign law and local registration of foreign lawyers generally. The other noticeable thing about it—and I have it highlighted in pink in the index—is that it is core uniform provisions. In other words, the provisions relating to foreign lawyers are fundamental and need to be worded the same in every version around the various states that introduce this legislation. On that point, I note that in fact Queensland, New South Wales and Victoria already have this legislation—or something very like it—in place. Tasmania is rumoured to be in the throes of putting it in. Western Australia has introduced much of the scheme but without actually a single act, and they are supposedly going to introduce it. There is an intention that everyone will have the same legislation—or pretty much the same legislation—in due course.

There are also, of course, definitions of 'Australian trust account', which might mean a local trust account or an interstate trust account, and 'a combined trust account', which means the legal practitioner's combined trust account maintained by the society under chapter 3, part 2, division 4, subdivision 3. To make it easy, though, basically the combined trust account is the fund about which I spoke earlier. It is quite a complex formula but, basically, when you are in practice, if you receive money into your trust account according to a formula that is laid out currently in the Legal Practitioners Act, and now in this new act, you have to go through every six months and figure out the lowest minimum in your trust account over each month and then do a formula based on how much money you already have in the combined trust account and how much money you are holding in the trust account. If you have not put enough down, the money goes down to the combined trust account. That money is then pooled and earns interest, some of which pays the Legal Services Commission and some of which goes into the guarantee fund. So, the combined trust account is something that is already there but is going to be of some import as we come to the proposed amendments on the guarantee fund in due course.

There is then a definition—and I do not intend to go through every definition—of 'disqualified person'. It means any of the following persons, whether the thing that happened has happened before or after the commencement of the definition: first, a person whose name has been removed from an Australian roll and has not subsequently been admitted or readmitted to the legal profession; secondly, a person whose Australian practising certificate has been cancelled or suspended either here or interstate—and because of that they are not an Australian legal practitioner; thirdly, a person who has been refused a renewal of an Australian practising certificate under this act or one of the corresponding acts in the other states; fourthly, a person who is the subject of an order under this act, or a corresponding law, prohibiting a law practice from employing or paying the person. One of the things that this bill probably does a little better than the previous legislation is that it actually deals with the issue of when someone is prohibited from practising law. That issue of how they could still be employed and be engaged in legal practice was, I think, somewhat vexed. Hopefully, it will be clarified and it will be somewhat more straightforward under the new provisions; fifthly, a person who is the subject of an order under this act or a corresponding law, prohibiting an Australian legal practitioner from being a partner of the person in a business that includes the practitioner's practice; sixthly, a person who is the subject of an order made under section 97 or section 122; and clause 97 being the section involving disqualification from managing an incorporated legal practice, and section 122 relating to the prohibition on partnerships with certain partners who are not Australian legal practitioners.

It is quite a complex definition if you then begin to apply those six concepts into the later definitions of incorporated legal practices and multidisciplinary partnerships. One of the most astonishing definitions in the bill is that of 'engage in legal practice'. It sounds as though it should be straightfor-

ward as a definition of the words 'engage in legal practice,' but the definition says, 'See section 7'. Section 7 says, 'Meaning of engaging in legal practice', so I figure that I am on the right path so far. It goes on:

1. Subject to any regulation made under subsection (2) in this act, engaging in legal practice includes practising law.

If that is not a circular definition, I do not know what is. That is all it says. It does not go on to say that 'engage in legal practice' means A, B, C and D. It does not say it means these things and includes engaging in practising law. It simply says, 'Engaging in legal practice includes practising law.' That, to me, is a bit of nonsense in terms of drafting and I will be interested to see what explanation there is for what possible use that can be in terms of the interpretation of the act. There is no definition that I can see of 'practising law' back in the definition section. 'Engage in legal practice' includes practising law. We do not know what 'practising law' means, but that is our definition of 'engaging in legal practice'.

We then have a definition of the guarantee fund and, again, that relates to this money which is some of the interest earned on the combined trust account which is then paid in to establish what I think most lawyers understand to be a fund which is there to ensure that, if there is a defrauding, a defalcation, by someone against a trust fund, then it will be made good from the guarantee fund. The very nature of it suggests that that is what it is there for. The problem has been in the way that has been interpreted to date, and one gets the feeling that the Law Society think it is their private money and it does not belong to the clients of the firm who have had their money taken from them. Hopefully, we will be able to sort that out.

Home jurisdiction is another new concept. Home jurisdiction, as it turns out, basically means the jurisdiction in which you hold your current practising certificate. It all gets a bit complex if you start thinking about someone who, for instance, might qualify here, signs the roll here, takes out a current practising certificate here (so that would make it their home jurisdiction), but then they actually spend most of their time practising in Victoria, New South Wales or wherever. It will be interesting dealing with that, because the other definition of 'home jurisdiction' is that which applies to an Australian registered foreign lawyer: that is, for an Australian registered foreign lawyer the home jurisdiction is the jurisdiction in which the lawyer's only or most recent current registration was granted.

Current registration is effectively their current licence to practise in an Australian state. We have this idea of home jurisdiction, and that all relates to the fact that we will be able to move around. When I moved here from New South Wales where I qualified, I had to work in a legal practice for some time and then my employer and I had to front before a committee at the Supreme Court with affidavits in order to satisfy them that I knew enough about the law in South Australia to be let loose on the public. The Attorney talks in his second reading speech about the idea that a lot of this is driven by consumer protection, but I wonder to what extent this will lead to consumer protection, because it seems to me that there are inherent dangers in the nature of legal practice if people can come here without knowing anything about the practice of law in this state. I questioned the advisers, and I thank them for the inordinate amount of time they took in explaining this bill to me. They certainly have a good grip on what it is all about; I am still coming to terms with it. They were excellent and patient; they spent in total 4½ hours and then emailed me 330 pages, so they spent a lot of time trying to get me to grips with this bill.

When I asked them about this issue of lawyers coming here who do not necessarily know anything about South Australian law yet who are allowed to practise here, the response was that it will be a matter of a negligence claim. That seems to me to be an unsatisfactory approach to consumer protection, because that is an attitude of, 'Let's wait until we have the accident and then we'll pick up the pieces,' rather than trying to prevent the accident from occurring in the first place. However, I am somewhat reassured that also as part of the advisers' answer they indicated that, in fact, what happened with me when I came here 30 years ago is not what happens (and has not happened for some years) under the existing regime; that, indeed, lawyers can come in from interstate and practise in this state without going through the establishing of credentials and knowledge of the local legal system that was required for me.

There is then a definition of 'incorporated legal practice', but I do not see any point in actually dealing with that there because all it says is that it has the same meaning as in chapter 2 part 5, and there is a whole section about this idea of incorporated legal practices. However, I invite people to contemplate this prospect that we will end up with Woolworths and Coles owning legal practices as well as owning the pharmacies and what they already own, namely, the liquor stores, the petrol stations and the supermarkets. I know that there are many who bow down to the great god of competition, but the member for Enfield and I are at one on the idea that competition is not something that is necessarily in the best interests of every community all the time. We face a future which I think is bleak because we will lose the concept of the profession and we will be running businesses and, as I think I have already mentioned, I think that happened to some extent during the 1980s in South Australia and it was a sad day. I really do fear for the future of the profession. My second son has just graduated in commerce law and he has chosen not to become a practitioner (at least for the time being) and I hope that if he does go into practice he can get as much enjoyment out of it as I have over my career in the law and that he does not face the sorts of difficulties that I can envisage will arise as we progress in this brave new world.

An 'interstate registered foreign lawyer' is a person who is registered as a foreign lawyer under a corresponding law; that is, they are a foreign lawyer, they have come into another state, they have registered in another state because foreign lawyers are recognised by a system of registration rather than by our practising certificate to become Australian legal practitioners, and they have then moved or come in from another state to undertake a case, and so on. Then there is a new definition of 'law firm', which is a partnership consisting of only Australian legal practitioners, one or more Australian legal practitioners, or one or more Australian-registered foreign lawyers. So, a law firm will consist only of lawyers. But that gets confusing, because you then have the definition of 'law practice'.

'Law practice' means an Australian legal practitioner who is a sole practitioner; a law firm—that is, a partnership involving only Australian lawyers or Australian and foreign lawyers, but all lawyers; a multidisciplinary partnership, which is where things start to get muddy because then it is lawyers and others who are not legal practitioners, with whom they can be in partnership; an incorporated legal

practice, which is where you have a corporation wherein someone has to be a lawyer, but it could be a corporation that does all sorts of things; or a community legal centre. I noticed that, in fact, community legal centres are another one of those little areas that seem to have fallen through and are not part of the memorandum of understanding entered into by the Standing Committee of Attorneys-General.

Certainly, I can find no reference in part 7 to community legal centres having any status as to core uniform, core non-uniform, or non-core in the documents that were sent to me. So, you have a law practice, which could be any range of these things. One can only presume that an Australian legal practitioner, who is a sole practitioner, includes a barrister, otherwise barristers will fall out of the system altogether, and I do not think that is the intention.

I think that a sole practitioner must include a barrister, because, although they work in chambers, barristers always work independently; it is the very nature of their existence. There is then the definition of legal costs, which, interestingly, includes disbursements but not interest. That is also a little nicety that will be of relevance later on. We have legal practitioner directors, who are basically the owners of an incorporated legal practice, or legal practitioner partners, who are basically partners in a multidisciplinary partnership.

So, you could have a partnership that has any number of different activities. It could be that they decide to go into partnership with a gymnasium and a hairdresser, for all we know. Most likely, they will go into partnership with finance advice providers, and things like that, but there is no restriction on the scope for what could be multidisciplinary activity, such as, 'Come to the gym and get your legal advice at the same time', and all that sort of stuff. A 'legal practitioner partner' is someone who is in a multidisciplinary partnership and who is the legal practitioner, or maybe one of several legal practitioners. 'Legal services' means work done or business transacted in the ordinary course of engaging in legal practice. Of course, we then get back to the wonderful definition of engaging in legal practice, which includes practising law, but it does not tell us anything about what it actually is. We have the local practising certificate, which is granted under this bill because this is the bill, soon to be an act, which applies throughout South Australia.

Then there is the Legal Practitioners Education and Admission Council (LPEAC). I highlight that because when we talk about 'regulatory authority', which is a definition further down the same page, in relation to this jurisdiction—that is, in relation to South Australia—regulatory authority means: the Supreme Court, the Legal Practitioners Education and Admission Council, the Law Society, the board or the tribunal. 'The board' is the Legal Practitioners Conduct Board, which continues in existence, and 'the tribunal', which we have not come to yet, is the Legal Practitioners Disciplinary Tribunal, which also exists already and is continued under this legislation.

There are then two definitions that will be quite interesting for lawyers, at least: 'serious offence' means an offence whether committed in or outside this jurisdiction that is either an indictable offence against a law of the commonwealth or, essentially, it goes on to say, offences that would be indictable offences if they were committed here, or an offence against the law of a foreign country that would be an indictable offence here. Then we have this interesting matter of a show cause event. A show cause event, as we will see later on, basically relates to circumstances in which a practitioner will be asked to show cause why they should not lose their practising certificate—that, in effect, is the shorthand way of talking about it.

A show cause event means becoming a bankrupt or having an official receiver appointed in relation to their debts and so on, applying for the benefit of a relief of bankruptcy or insolvent debtors, his or her conviction for a serious offence, which I have just explained, basically an indictable offence, or a tax offence, whether or not the offence was committed in or outside this jurisdiction and whether or not the offence was committed while the person was engaging in legal practice as an Australian legal practitioner, or was practising foreign law as an Australian registered foreign lawyer, as the case requires. A tax offence is also defined to be basically an offence under the Taxation Administration Act 1953, whether committed inside or outside the commonwealth. So, a show cause event will be of considerable significance to practitioners as they go through this bill and realise what it will mean to them.

There is then a definition of 'sole practitioner'. Interestingly, some years ago the Law Society formed a group for sole practitioners, of which I was one of the founding members. I did not participate in its founding but I was one of the original group of sole practitioners who got together for the very first event. One of the difficulties of sole practice, of course, is that you lack the socialisation with other lawyers a lot of the time, but also the benefit of just being able to discuss in a relatively informal way issues that come up in the course of practice. For that reason I was always very keen to engage members of the independent bar in this state because they were, in fact, a great source of specific advice and assistance.

I found the independent bar here to be—with one exception, and that was someone who came here briefly from Sydney—unfailingly helpful, pleasant, not overcharging, really willing to do a good job, to work, often, if they had to, at short notice, to do the best that they possibly could for your client and for you as a practitioner, and they certainly were not adverse to getting the odd phone call to say: 'Look, here's the situation I have got; what do you think?' I found them, as I said, to be a valuable resource. Interestingly, the sole practitioners group expanded its concept so that it was classifying as a sole practitioner anyone who was the sole principal in a practice.

So, even if someone did engage a junior lawyer, they would still be classified within the little group in the Law Society as a sole practitioner, even though they could, in theory, have three, four or however many people working in their employ. However, if they were the sole principal of a practice (that is, they were not in partnership), that is what qualified them for the sole practitioners group. However, in the bill, the definition of 'sole practitioner' is 'an Australian legal practitioner who engages in legal practice on his or her own account'. Interestingly, under the definition I referred to earlier, I would be an associate of my own practice under the current definitions in this bill.

I think we will see fewer and fewer sole practitioners in practice; it will become harder and harder, certainly for a sole practitioner in general practice. I became something of a dinosaur while I was in practice. Very few people were left trying to undertake a sole practice in general practice. There were still some sole practitioners who specialised in particular areas of the law—quite a few family law practitioners, for instance, were sole practitioners—but there were very few of us who, in the course of a week, would go to an Industrial Court in relation to a WorkCover matter or into the local

Magistrates Court for a criminal matter or into the Supreme Court to argue a probate case, and all those sorts of things. It was interesting, and I certainly had a breadth of experiences in the law which I look back on with great fondness, although at the time I did not always necessarily think of them fondly.

In the practice I ran, I did everything from running for several years a native title claim for a tribe of Aborigines on the Far West Coast to a breast implant claim against a multinational corporation, which was one of my last cases in the Federal Court. So, there I was, little Isobel Redmond & Co. of Stirling, South Australia versus the Mentor Corporation of America—and I am pleased to say that we had a successful outcome two days before the election in February 2002. When I went before our now deceased Federal Court judge, he not only congratulated me on my being able to come back to tell him that we had successfully negotiated a settlement of the claim but I was able to tell him that I had been elected to parliament and would not be attending before him any more. So, I think, sadly, 'sole practice' is a definition that will become an anachronism. 'Supervised legal practice' means:

> legal practice by a person who is an Australian legal practitioner—
>
> (a) as an employee of a law practice, where—
>
> (i) at least one principal or other employee of the law practice is an Australian legal practitioner who holds an unrestricted practising certificate. . .

That is fine. In a normal situation where someone is an employee—a new young graduate who goes to work in a law firm, now law practice—someone in that law practice who is an Australian legal practitioner and who holds an unrestricted practising certificate will naturally supervise the work of the new young graduate.

Then there can be supervision of legal practice as a partner in a law firm—and that is where I begin to get a bit confused about the expression 'supervised legal practice'. As a partner in a law firm where there is at least one other partner who is an Australian legal practitioner, that person engages in legal practice under the supervision of that Australian legal practitioner. I am still trying to get my head around exactly where that fits into the scheme because, if someone warrants supervision, I would have thought it a bit odd for them to be practising as a partner of a law firm.

There are different definitions of 'trust money', which is defined more fully later on in a particular part of the act, and 'trust property'. In the bill, 'trust property' means:

> . . . property entrusted to a law practice in the course of or in connection with the provision of legal services, but does not include trust money. . .

So, theoretically you could have all sorts of things placed into your hands as trust property.

There is a definition of 'unqualified person', which means a person (including a body corporate) who is not entitled to engage in legal practice but, given the scope of incorporated legal practices, it seems to me that there are not many people who could not engage in legal practice provided they can engage with someone who actually has a practising certificate and form a company with that person. Unsatisfactory professional conduct is separately defined later on.

I have already been through the terms relating to lawyers (which is the signing of the roll) and legal practitioners (people who have signed the roll and then actually got a practising certificate). Then there is this idea of people who could be associates of a law firm—and, as I said, I am still puzzled as to how a sole practitioner can be an associate of their own firm, but that is how the definition would have us see it. We go on to associates and principals of law practices, and the bill says that you can have a legal practitioner associate (that is, an associate of the practice who is an Australian legal practitioner) or a lay associate (who is an associate of the practice who is not an Australian legal practitioner). I tread down this path with some trepidation because, in my mind, as soon as we start involving people as associates who are not legal practitioners we place in jeopardy some of our legal and ethical obligations.

Indeed, I noticed that when the Attorney spoke on the bill he talked about business opportunities and so on (and, as I said, that is the whole thrust of this legislation), and, under the heading 'Safeguards for the Role of the Profession', said:

> In its place is a modern regulatory environment with consumer benefit being one of the drivers, and consumer protection being another. The model must, and does, come with numerous safeguards to ensure that a lawyer's commitment to his or her ethical obligations is not diluted by the reforms (nor does it introduce a disincentive to do so).

He then goes on to say:

> Initially I had concerns about the potential for lawyers' ethical obligations to be compromised by the decision to allow profit-sharing with non-practitioners. Two basic duties of lawyers are to provide impartial advice to a client and to assist the court in reaching a just and correct decision whilst representing the client. These duties potentially conflict with shareholder profit motives and the provision of non-legal services by people that are not bound by the various duties but working for the same practice and the same client.

The Attorney goes on to say that he decided, on the basis of the Law Society supporting the reforms, that it was all okay, but I express my disquiet.

As I said, the opposition will be supporting the passage of this bill, subject to some amendments, but I do express my disquiet about where this path leads us, of having people recognised as associates of law practices who have no legal qualifications and who do not have the same ethical obligations as a result. In signing the roll of the Supreme Court to become an Australian lawyer (using the new terminology), one undertakes to become an officer of the court. Now, a lot of clients do not understand when they come to you that as a legal practitioner your first obligation is to the court as an officer of the court: it is not to your client. The client ranks second, but your first obligation is always to the court. Lay associates would not have those obligations ethically, morally or legally; however, that is the way we are to go.

I already mentioned this peculiar circular definition of 'engage in legal practice', which leads us to clause 7, 'Meaning of engaging in legal practice', subclause (1) of which simply says:

> Subject to any regulation made under subsection (2), in this act 'engaging in legal practice' includes practising law.

That is the entirety of the definition, in effect, because subclause (2) then talks about the regulations that can be made. I will come to subclauses (3) and (4) in due course, but they talk about mortgage financing, which does nothing to further our understanding of what is meant by 'engaging in legal practice'. I was puzzled by the provision in subclause (2) because, as I said, it deals with the power to make regulations. It states:

> The regulations may make further provision in relation to the meaning of engaging in legal practice and may, for example—
>
> . . . (b) if a regulation is made providing that a person who undertakes activities or work of a prescribed kind or in prescribed circumstances is not to be taken to be engaging in legal practice for the purposes of this act—make

> provision for. . . the application. . . of the provisions of this act to that person.

I could not quite get my head around why, if someone was determined by regulation to be not engaging in legal practice, you would then make provision with respect to the application of the provisions of this bill to that person, because my understanding is that this bill is all about regulating people who are engaging in legal practice. So, that seemed to me to be quite a strange thing to be asserting would be prescribed by regulation.

Then we have something which I think is just a peculiarity of the drafting in that subclauses (3) and (4) seem to me to be somewhat repetitious. Subclause (3) provides :

> For the avoidance of doubt, mortgage financing is not to be regarded as part of engaging in legal practice.

Subclause (4) states:

> It is not the intention of parliament that any implication be drawn from this act that mortgage financing was ever part of engaging in legal practice.

I will be interested to hear in due course (and no doubt the advisers will take a note so that the Attorney can give me an explanation) what prompted those two subclauses, because I am at a loss as to why we needed to spell out so specifically, using two subclauses—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: I will wait to hear from the Attorney when he has his chance to respond. We then get back to the issue of home jurisdiction, which essentially starts out as being simply the jurisdiction in which a practitioner has their current practising certificate, and the idea is if you are an Australian lawyer then you are entitled, subject to meeting other requirements, to get an Australian practising certificate. You only get it in one state. So, you get your practising certificate and that becomes your home jurisdiction, whichever state or territory that might be. But then we have to define it also for Australian registered foreign lawyers, and then for an associate of a law practice who is neither an Australian legal practitioner nor an Australian registered foreign lawyer. So then I start to have trouble conceiving who we are talking about and what the circumstances might be.

So we have an associate of a law practice, and we go back to the definitions, remembering that a law practice could be a sole practitioner, a law firm (that is, a partnership), a multidisciplinary partnership or an incorporated legal practice. So we have that in our heads. Then we go back to the definition of an associate, which is set out in clause 6, and that is all those agents, employees, and all that sort of thing. So it could be any number of people who are in some way engaged in a law practice but they are not a practitioner either as an Australian practitioner or as a foreign practitioner. Their home jurisdiction (and I still do not have my head around why we need to have a home jurisdiction for those people), where only one jurisdiction is the home jurisdiction for the only associate of the practice who is an Australian legal practitioner or for all of the associates of the practice who are Australian legal practitioners, is that jurisdiction.

I think that means that, if someone is a non-lawyer who is employed or acting as an agent for some form of law practice—whether it be a sole practice, a partnership, a multidisciplinary partnership or an incorporated legal practice—if everyone involved in that happens to be registered as practising in South Australia (that is, those who are practitioners), then home jurisdiction becomes South Australia. If it is one of those firms where people are registered and have their practising certificate in different states, it will be defined as either the jurisdiction in which the office is situated at which the associate performs most of his or her duties for the law practice; or, if you cannot figure it out that way, the jurisdiction in which the associate is enrolled, under a law of the jurisdiction, to vote at elections for the jurisdiction. Of course, not everyone is enrolled and entitled to vote; certainly, if one came from overseas, one might have problems being enrolled. However, if that does not work, if one cannot get it under A or B, then it is the jurisdiction determined on or in accordance with criteria specified or referred to in the regulations.

It is quite complicated when one starts to try to define things as simple as home jurisdiction. Some 99 per cent of lawyers in this state probably register and obtain their practising certificate in this state, and none of this stuff will matter. This is all a sop to the big national firms and, in due course, I have no doubt that it will also be to the international firms, which will come in and swamp the market here—and we will get on to contingency fees and those sorts of things a little later.

The next clause relates to suitability matters. This is really by way of definition, even though it is a separate clause to the definitions clause and, again, it is one of the areas that is known as core non-uniform; that is, it is fundamental, but it will not necessarily have exactly the same wording from state to state and state to territory. The point of the definition does not become evident until later in the bill. However, in any event, a suitability matter in relation to a natural person, firstly, concerns whether the person is currently of good reputation and character. In fact, I made a note that I could not see any reference here as to someone who was formerly not of good reputation and character, and how one might decide when a person who was formerly not of good reputation and character has in some way made good their reputation and character to be considered currently of good reputation and character, in terms of this suitability.

The next issue is whether a person is or has been an insolvent. So, that takes account of past deeds—misdemeanours, or whatever—and whether the person has been convicted of an offence. So, again, we are looking to the past. That is why I started to think: why is it that, in terms of good reputation and character, we will not look at the past; we will look specifically at whether they are currently of good reputation and character? It struck me as odd that the word 'currently' had been put into the first part of the definition, which makes it very clear that we are not looking back into their past. We are asking: are they currently of good reputation and character? I have a lot of questions about how one might assess that issue because, as I said, these others go on to say whether they are or have been an insolvent under administration and whether they are or have been convicted in Australia or a foreign country of an offence. It specifies that they have to then consider the nature of the offence, how long ago the offence was committed and the person's age when the offence was committed, although it does not specify any obligation to consider the circumstances relating to the offence. Circumstances can obviously have a big impact on offences and how they should be interpreted, in terms of people being suitable for the practice of the law.

I mentioned during the briefing we had the case of a young law graduate in Sydney many years ago—it was old news when I was graduating in 1977—who had had a relatively minor juvenile offence which, when he applied for admission, he failed to disclose. That young man never got

to practise, because the court said that it was not the fact that he had committed an offence as a juvenile but the fact that he had lied in his affidavit seeking admission by not disclosing that juvenile offence which indicated to the court that he was not a fit and proper person. For years afterwards he tried to get admitted and, sadly, was never admitted, I understand. So the law has always been quite rigorous in its approach to who is a fit and proper person.

This new legislation sets out suitability matters and goes on to refer to practising without being appropriately authorised to practise, and then interestingly also considers whether 'the person is currently subject to an unresolved complaint, investigation, charge or order' under either this new Legal Profession Bill or the Legal Practitioners Act of 1981 or a corresponding law interstate or even overseas. That struck me as interesting because I had only ever had a couple of occasions to respond to the conduct tribunal, most recently this year, most surprisingly in a matter where the conduct tribunal has found that there was no case to answer. It wrote to me because someone had made a complaint about something a client alleged I had not done six years ago. I wrote a fulsome reply and in due course got a letter saying that they had investigated the matter and that I had not done anything wrong.

It is interesting that a suitability matter includes even being subject to an unresolved complaint or investigation, if you are subject to a current disciplinary action or have been the subject of a disciplinary action in another profession or occupation. For instance, if you were a doctor and had a complaint lodged about you and were the subject of disciplinary action in the course of your practice, whether here or overseas, that is a suitability matter under this definition. The other parts of that definition are relatively straightforward, until we get down to paragraph (m), which says that a suitability matter includes:

> whether the person is currently unable to carry out satisfactorily the inherent requirements of practice as an Australian legal practitioner.

I will be very interested to see when we get to it in due course just who gets to make the decision about whether someone is currently unable to carry out satisfactorily the inherent requirements of practice. Sometimes it will be obvious: for instance, if someone were suffering from some sort of neurological deficit or some identifiable disease or impairment that prevented them from carrying out their practice. Otherwise potentially it has a great impact according to who will be the judge of that area.

The next clause I will talk about is the fusion of the legal profession, one of the hallmarks of practice in South Australia. In this state many years ago we fused the legal profession, so when you are admitted in this state you are admitted as both a barrister and a solicitor. Clause 12 of the bill (which I understand simply reflects what already appears in the Legal Practitioners Act) struck me as being somewhat convoluted, to say the least. Subclause (1) is straightforward and provides:

> It is parliament's intention that the legal profession of this state should continue to be a fused profession of barristers and solicitors.

To me that says it all. That is all that needed to be said. However, subclause (2) provides:

> The voluntary establishment of a separate bar is not, however, inconsistent with that intention, nor is it inconsistent with that intention for local legal practitioners voluntarily to confine themselves to engaging in legal practice as solicitors.

That is fine; I have no difficulty with that. Certainly in practice I was admitted as a barrister and solicitor of the Supreme Court of South Australia. I chose to practise predominantly as a solicitor, although, on rare occasions, I would be a barrister. In fact, on only one occasion did I robe up and appear in a case at any length in the Supreme Court. I knew the case inside out and back to front, and I figured that it would take longer to brief a barrister to do it than it would take for me to do the case. It was more straightforward for me to do it. You do have that crossover. You are admitted as both and most people choose to practise as one or the other. Some people tended to do a bit of both. What started to get me confused—although I understand that there is a history to it and I understand a former attorney of blessed memory had some input into it, and perhaps a former chief justice—

The Hon. M.J. Atkinson: A former chief justice.

Mrs REDMOND: Subclause (3) provides:

> An undertaking by a local legal practitioner to engage in legal practice in this jurisdiction solely as a barrister or solely as a solicitor is contrary to public policy and void—

The Hon. M.J. Atkinson: That is the former attorney-general. That's C.J. Sumner. Don't worry, the chief justice has got around it.

Mrs REDMOND: That started to confuse me. I will not go on with the rest of that subclause. I gather that the problem arose largely because of what is then referred to in subclause (4), which provides:

> Nothing in this section affects the validity of any undertaking given to the Supreme Court by a local legal practitioner who receives the title 'Queen's Counsel' or 'King's Counsel' relating to the use of that title in the course of engaging in legal practice.

As the Attorney says, that was put in by the chief justice to get around this problem of saying, 'An undertaking by a local legal practitioner to engage in legal practice solely as a barrister or solely as a solicitor is void and against public policy'. Quite frankly, that clause does not make any sense. I will not be moving to remove it. I gather that the dust has settled on whatever the things were that were occurring at the time but, quite frankly, it does strike me as an odd provision and we would be well served if we only had subclauses (1) and (2).

The Hon. M.J. Atkinson: It could be (1) and (3).

Mrs REDMOND: No, (1) and (2). We then get to general requirements for engaging in legal practice. At the moment there is a provision in the legislation that says it is unlawful to hold yourself out as able to practise law. This says that a person must not engage in legal practice in this jurisdiction, unless the person is an Australian legal practitioner. We get back to these circular definitions. If a person must not engage in legal practice, what does that mean? If we go back to the definitions clause, it says: 'engage in legal practice' means what it says in clause 7.

Clause 7 provides that it includes practising law. I do not think it takes the argument any further or clarifies in any way what is meant by 'engaging in legal practice' compared to the former, that is, being unable to hold yourself out as able to practise law. In any event, the view was that it will be somewhat easier to prosecute, because if you use certain nominated titles you will be presumed to be holding yourself out as engaging in legal practice; therefore, the onus will be reversed and it will be up to you to prove that you were not engaging in legal practice.

The nominated titles (which are set out in clause 15) are lawyer, legal practitioner, barrister, solicitor, attorney, proctor, counsel, Queen's Counsel, King's Counsel, Her

Majesty's Counsel, His Majesty's Counsel and Senior Counsel. It is obvious to me that the Attorney was thinking ahead in terms of having His Majesty and King's Counsel included as well as Her Majesty and Queen's Counsel. Interestingly, in my electorate—where we have been ahead for a long time—the Scott Creek hall has a sign on the wall—in anticipation, perhaps—that reads 'God save The King'.

As I said, that sets up a regime whereby if you use those titles, clearly, a presumption is raised against you that you are holding yourself out as able to practise law, and the maximum penalty, like virtually all of the maximum penalties throughout this legislation, is increased to $50 000. So, certainly, there is a strong impetus not to be in flagrant breach. During the course of the briefing I wondered whether someone could nevertheless hold themselves out as being in the business of providing legal advice, because to say that you are a legal adviser does not appear to me to breach any of those provisions.

As long as you were not seeking audience in a court, or anything like that, one wonders whether you can engage in providing legal advice. It does at least reverse that onus so that it will be somewhat easier to prove; and, of course, there have been cases of people who did not have qualifications but who simply pretended to be qualified lawyers, set themselves up in practice and ran practices. Famously, one young girl in Victoria, I think, was very successfully practising as a solicitor for a number of years. For some reason she decided she wanted to move to the bar and it was there that she came undone. It all came out in the wash that she did not have the qualifications to practise either at the bar or as a solicitor.

There is then a prohibition on advertising an entitlement to engage in legal practice when not entitled to. Again, the sort of penalty imposed is largely $50 000. As far as I could find, there is only one clause in the bill in which a penalty imposed is not simply monetary but which potentially has a term of imprisonment. To some extent I thought that was a little odd because often one finds that where legislative things are impinged there is not only a monetary fine but there is also a potential for someone to be sent to gaol for doing the wrong thing. As I said, most of these penalties do not deal with that.

Clause 16 deals with the right of audience. It is the right of people who are entitled to practise before any court or tribunal established under the law of the state; and under subclause (1)(a) the Attorney-General is specifically given right of audience, as is the Solicitor-General, the Crown Solicitor, the Australian Government Solicitor and the Director of Public Prosecutions. So, the persons holding those particular offices are specifically entitled to have an audience. The next group is Australian legal practitioners acting on the instructions of any of those people; then Australian legal practitioners acting on the instructions of the Corporate Affairs Commission, Australian legal practitioners acting on the instructions of the Australian Securities and Investments Commission, Australian legal practitioners employed by the Legal Services Commission or a community legal centre—and then we get to the people who appear most before any court and need a right of audience—an Australian legal practitioner engaging in legal practice as a principal or an Australian legal practitioner acting in the course of employment by such a legal practitioner. Basically, people acting in the course of their employment.

It does not expressly deal with other people who might have a right of audience. All the people listed are said to be 'entitled to practise', but it does not canvass who else might have a right of audience. My understanding from the briefing is that people such as next friends and guardians ad litem, and those in the course of obtaining their qualification (such as GDLP students), will continue with the practice which exists at present; that is, they will seek leave of the court or tribunal before which they are appearing in order to have a right of audience. I find it a little odd that that provision does not deal with other people who might seek right of audience, or anything like that. It deals only with people who are legal practitioners having a right of audience.

Clause 17 deals with unlawful representation and makes it an offence for anyone who is a legal practitioner to permit or aid an unqualified person to engage in legal practice—and we are back to that peculiar definition—or to act in collusion with an unqualified person to enable that person to engage in legal practice, or to enter into an agreement or arrangement with an unqualified person under which that person is entitled to share in the profits arising from engagement in legal practice. I think that is a little odd. It seems to me the very nature of incorporated legal practices or multidisciplinary practices would mean that Australian practitioners or Australian lawyers, by entering into an incorporated legal practice or a multidisciplinary arrangement, would be doing that which is considered to be unlawful; that is, they enter into an agreement or arrangement with an unqualified person under which the unqualified person is entitled to share in the profits arising from engagement in legal practice.

The engagement in legal practice in that context does not refer to an unqualified person. It is the bit about 'entitled to a share of the profits' which refers to an unqualified person, so the engagement in legal practice could be by either a qualified person or an unqualified person. It strikes me as a provision that might need further consideration. My understanding is that the intention is that a person is not to collude with an unqualified person, or assist them in any way to engage in legal practice and to share in the profits, but, as I read it, the provision does not achieve what it sets out to achieve—but it is not up to me to draft the legislation.

We then come to the clause which, hopefully, will fix some of the problems that have arisen over the years with people who have been struck off or disqualified from practice being able to practise. There have been situations (not necessarily in this state) when people, who have been disqualified from practice, work for former partners or other people, are paid a huge amount of money as a paralegal and, in effect, still practise, even though they do not hold a practising certificate, and I think that that has been somewhat problematic. Hopefully, this is one of the improvements that will occur with the new bill, which provides:

> (1) Subject to this section, if an Australian legal practitioner is a party to an agreement or an arrangement to employ or engage, in connection with the practitioner's legal practice—
> (a) a disqualified person; or
> (b) a person convicted of a serious offence—

and we will see later on why I think that a person convicted of a serious offence instantly becomes a disqualified person—

> the practitioner is guilty of an offence—

and subject to a penalty of up to $50 000. This makes it very clear that, in connection with your practice, you cannot engage or employ someone who is disqualified or who has been convicted of a serious offence.

There is a defence if you did not know that they were in that category and could not be reasonably expected to have known; you cannot deliberately stay ignorant of the fact by not asking or not checking and so on. These are the prima

facie circumstances: you cannot engage someone who is disqualified in connection with your legal practice, and I think that that has been a bit of a loophole until now. This is the core non-uniform clause, so it is central to the arrangements of the SCAG memorandum of understanding—that you will not be allowed to employ a disqualified person or a person convicted of a serious offence—but we can word it as we choose in this state.

In the remainder of the clause, arrangements are made for the tribunal's ability to authorise an agreement. You could have a situation where someone could be authorised to practise under supervision and the tribunal could set the terms of supervision that were to apply. Certainly, in my personal practice I was aware of someone who had been a very good practitioner but who got into some legal strife. Upon release, they sought to practise again. Provided they could be sufficiently supervised, so that they could not diddle the books or anything like that, they were a very good practitioner, and certainly they were always quite honourable in their dealings with me.

I think it is reasonable that there be some sort of power for the tribunal, provided it is satisfied that the safety of the community and the clients of the firm will not be jeopardised, to allow such an arrangement to take place. Specifically, the tribunal is not to grant an authorisation unless it is satisfied that a person can be employed, but will not be engaged in legal practice, and that the granting of the authorisation on the specified conditions is not likely to create a risk to the public or be otherwise contrary to the public interest.

A series of clauses sets out how the tribunal is to go about reaching its conclusions on the issues it needs to consider, and it specifies certain clauses in the bill that it needs to take into account in reaching its conclusion. As I said, I think that is probably an improvement on what we have currently. Again, if there is a breach of the arrangements a tribunal authorises to put in place, the same penalty of a maximum of $50 000 applies. There is a converse provision at the very end of clause 18, that is, that a person who is disqualified or who has been convicted of a serious offence cannot seek to be employed so that they can engage in legal practice. Indeed, they cannot even seek to be employed by a law practice unless they inform the practice first. So, they can make their application and, once the law practice has been informed and if it wants to employ them, they will have to go through the process that is set out earlier in the section: seeking the authority of the tribunal, and the tribunal going through its process and putting any conditions on the employment that it thinks is appropriate. Effectively, the onus is on both the practice that seeks to engage the person as an employee, and the person not to proceed without getting authority to do it. Again, the penalty is up to $50 000.

We then have a small clause on professional discipline. A contravention of that part dealing with the employment of a person who is disqualified, and various other things, by an Australian lawyer who is not an Australian legal practitioner—so, someone who is enrolled somewhere on a Supreme Court roll in this state, or another state or territory, but who is not an Australian legal practitioner, and so does not have a current practising certificate—is capable of constituting unsatisfactory professional conduct (which is the lower level of professional misdemeanours) or professional misconduct (which is the level of misconduct which could get you struck off and not allowed to practice any more). It goes on to deal with things that are contained in detail in chapter 4, and we will come to those in due course.

We then come to the admission of local lawyers to the legal profession. It will still be necessary for the Supreme Court to maintain a roll of persons admitted to the legal profession under this act. That will now be known as the 'local roll'. Where a person is admitted under the act, the person's name must be entered on the local roll in accordance with the admission rules, and the person has to sign that roll. Their admission is effective from the date that they sign the roll.

The bill goes on to specify that a local lawyer is an officer of the Supreme Court. So, a person becomes an officer of the Supreme Court on being admitted to the legal profession under this act. They do not have to take out their practising certificate, but when they sign the roll they will become an Australian lawyer. If they sign it in South Australia, they will be known here as a local Australian lawyer, and they will be subject to the rule that they are an officer of the Supreme Court. As I have already pointed out, that is the primary duty of every lawyer in this state: they must recognise that they are, first and foremost, officers of the court, and that their first duty is to the court.

If you watch the old Rumpole shows, you may be aware of occasions when Rumpole represented people who may or may not have committed a murder, or some other felony or indictable offence. He would say, 'Don't tell me, don't tell me; I don't want to know.' The rules making you an officer of the court mean that you can never lie to or mislead the court. If you know that someone 'did it', you cannot then defend them on the basis that they did not do it. You may be able to defend them on all sorts of other bases: that there was a justification for it, or it was self-defence, or whatever, but you can never defend on the basis that they did not do it if in fact you know they did do it. That is why Rumpole always used to say, 'Don't tell me; don't tell me whether you did it or not' because, as an officer of the court, he must not mislead the court.

You only cease to be an officer of the court if your name is removed from the local roll. As I understand it, I am still an officer of the court because I am enrolled, even though I do not hold a current practising certificate and do not intend to hold a current practising certificate whilst I am engaged as a member of parliament.

The clause then goes on to deal with eligibility and suitability for admission. The first thing that person has to do is to satisfy the Supreme Court that they are a person of good reputation and character and that they have complied with the admission rules. That largely relates to having learnt the appropriate things about the law, and the rules made by the Legal Practitioners Education and Admission Council (which is the group which prescribes the qualifications for admission to the legal profession) or, to the extent that there has been non-compliance, that a person should be exempted from compliance.

For a number of years it was certainly the case that people who had sufficient practical experience in certain areas might persuade the Supreme Court or, subsequently, the admissions body that they did not need to comply with certain aspects of the admission rules because they already had practical experience. There were, for instance, a number of police prosecutors who did not undertake GDLP but, nevertheless, gained full admission and practising rights because they moved from police prosecutors, having obtained a law degree, into becoming practitioners at the private bar. Personally, I think that was something of a mistake because they really did not have a sound knowledge of a range of

other things and were very confined in their knowledge. Nevertheless, that is the way it was administered.

Applicants have to satisfy the Supreme Court of those things and the Supreme Court then has to refer each of the applications for admission to the Board of Examiners. The Board of Examiners can refer any matter raised in an application to that Education Council for advice and, if it wants to, get a determination from them. The Board of Examiners then makes a recommendation back. Having got that back, the Supreme Court then has to determine the suitability of a person. In doing that they go back to a consideration of the suitability matters in relation to that person.

That takes us back to the definition that I referred to earlier of suitability matters, set out in clause 9, which were the matters to do with whether they are currently of good reputation and character, whether they have been convicted of any offences, how long ago, the nature of the offence, their age when they committed the offence, whether they have ever been insolvent, whether they engaged in legal practice when they were not authorised to do so either here or overseas, and whether they are subject to any unresolved complaints or disciplinary actions even in other spheres of employment.

The Supreme Court goes through all of that and any other matters it considers relevant—which is pretty broad, of course. There is a note in this area which says that the Education and Admission Council rules may provide for a person to apply for an early indication as to his or her suitability for admission to the legal profession. I assume that might relate to someone who perhaps has a bit of background; perhaps a young person who had something of a history of police involvement or something, who may be worried that they could study law and get their degree and be a completely reformed character with a great deal to offer to the profession, only to find that they were knocked back. So, I suspect that note refers to the ability of that person to at least get an indication before they embark on many years of study or maybe when they are part way through or something like that to see whether they can have any reasonable prospect of being admitted. We then get to part 3—Legal practice—Australian legal practitioners. Again, we have this difficulty of the question: what is engaging in legal practice? We go back to the circular definition, but—

The Hon. G.M. Gunn: What about members of parliament? They come close at times.

Mrs REDMOND: They do, indeed. This clause deals with this idea of practising certificates, because we have this first level where you enrol with the Supreme Court. You become an Australian lawyer once who are enrolled with the Supreme Court, whether it be in this state or in one of the other jurisdictions around the country. Having got your enrolment as an Australian lawyer, you can then seek the right to practise here. That involves getting your practising certificate, and that is what this section deals with—namely, Australian legal practitioners—and you are entitled to practise and to engage in legal practice (whatever that may mean). If you are an Australian legal practitioner—that is, you have your practising certificate—your suitability to hold a practising certificate is assessed separately to your suitability to be enrolled. It starts out by stating:

This section has effect for the purposes of any provision of this Act where the question of whether or not a person is a fit and proper person to hold a local practising certificate is relevant.

Again, the Supreme Court has to go through this process as follows:

The Supreme Court may, in considering whether or not the person is a fit and proper person to hold a local practising certificate, take into account any suitability matter—

Again, we go back to that definition, which is why I spent some time going through the definitions earlier, of what is a suitability matter; so, they consider that—

and any of the following, whether happening before or after the commencement of this section:

(a) whether the person has obtained an Australian practising certificate because of incorrect or misleading information;
(b) whether the person has contravened a condition of an Australian practising certificate held by the person;
(c) whether the person has contravened this Act or a corresponding law or the regulations or legal profession rules under this Act or a corresponding law;
(d) whether the person has contravened—
    (i) an order of the Tribunal; or—

that is the Legal Practitioners Disciplinary Tribunal—

    (ii) an order of a corresponding disciplinary body [in another place]. . .
(e) without limiting the operation of any other paragraph—
    (i) whether the person has failed to pay a required contribution or levy to the guarantee fund;

That is something we will come to later. We are reserving our position on this issue of the levy, this ability which is now to be imposed that the Law Society can seek from practitioners contribution to the guarantee fund by way of imposing a levy. I understand that in New Zealand practitioners were all asked to put in $10 000. I do not see that it should be necessary to have that. The few practitioners I have spoken to thus far are surprised and concerned that a levy might be imposed, but what is interesting in this context is that failure to pay a levy could constitute a contravention of the legislation but also it could be a matter which the Supreme Court could take into account in deciding whether someone is fit and proper to be a practitioner. It is not just the levy: they can also take into account whether the person has contravened a requirement imposed by the Society about professional indemnity insurance which, as I said, is already there (it is compulsory), whether that person has contravened a requirement about trust money and whether the person has failed to pay other costs or expenses for which the person is liable under this act or the regulations. In effect, that involves, for the most part, paying the cost of the Law Society investigation into your firm and so on. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

ASSENT TO BILLS

His Excellency the Governor, by message, assented to the following bills:

Julia Farr Services (Trusts),

Statutes Amendment (Petroleum Products).

STATUTES AMENDMENT (POLICE SUPERANNUATION) BILL

His Excellency the Governor, by message, recommended to the house the appropriation of such amounts of money as may be required for the purposes mentioned in the bill.

MODBURY HOSPITAL

A petition signed by 131 residents of South Australia requesting the house to urge the government to invite the people of South Australia to have their say regarding the government's proposed closure of Modbury Hospital's Obstetrics Department was presented by Ms Chapman.

Petition received.

WASTE LEVY

A petition signed by 376 residents of South Australia requesting the house to urge the government to ensure that all funding raised from the solid waste levy is used in programs designed to meet the SA Strategic Plan target for reduction of waste to landfill was presented by Mr Griffiths.

Petition received.

SMITHFIELD PLAINS COMMUNITY POLICING PROGRAM

A petition signed by 300 electors of South Australia requesting the house to support the extension of the community policing program to Smithfield Plains was presented by Mr Piccolo.

Petition received.

TOUR DOWN UNDER

A petition signed by 371 residents of South Australia requesting the house to continue to support the efforts being made by the state government to secure Pro Tour status for the Tour Down Under, was presented by Mr Bignell.

Petition received.

QUESTIONS

The SPEAKER: I direct that the written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 5, 72, 82, 94 to 96, 108, 109, 115, 116, 120, 121, 140, 141, 143, 144, 146, 147, 149, 150, 162 and 200; and I direct that the following questions without notice be distributed and printed in *Hansard.*

AMBULANCE SERVICE

5. **Ms CHAPMAN:**

1. What was the outcome of the Health Department's review of the SA EMT Ambulance Service and will the report be made public?

2. Has the interim licence for the SA EMT Ambulance Service to act as an ambulance service, been renewed and if so, what restrictions were placed on the licence and why?

The Hon. J.D. HILL: I am advised:

1. The review by an independent consultant recommended that a further licence be issued under the *Ambulance Services Act 1992* to EMT Ambulance South Australia for the period until 31 March 2008. The review report was to assist in the Minister's decision-making in relation to the licence and it is not intended that it be made available for wider release.

2. See above.

ECONOMIC STRATEGY AND POLICY DEVELOPMENT PROGRAM

72. **Dr McFETRIDGE:** What are the details of 'grants and subsidies' by the Economic Strategy and Policy Development Program in 2007-08 and why have they increased by $407 000 in 2007-08?

The Hon. K.O. FOLEY: The Department of Trade and Economic Development (DTED) has advised the following:

Grants and subsidies included in the Economic Strategy and Policy Development Program in 2007-08 comprise the following:

Description	Amount $'000
Northern Advanced Manufacturing Industry Group (NAMIG) project (*This project involves engaging with students, teachers and industry in Adelaide's northern suburbs to develop career awareness, employability and entrepreneurial skills and engagement with science, maths and technology in a manner that is meaningful for students. This will ultimately assist local advanced manufacturing companies gain an adequate supply of skilled workers to maintain their projected growth over the coming decade.*)	350
Industry Workforce Development *(This project seeks to develop a suitably skilled workforce including a greater supply of qualified professionals in science, engineering and technology sectors which is vital to the growth of key industry sectors and the realisation of major defence and mineral resource projects.)*	100
CRC Automotive *(The CRC for Automotive assists in fostering the development of innovative, globally competitive businesses by lifting the capability of SA's automotive component suppliers to enable them to compete in the rapidly globalising supply chain of the auto industry. This initiative also supports R&D for vehicle safety, fuel management, and greenhouse gas reductions.)*	100
Maths Science Promotion *(This project aims to build capacity in the teaching community and inspire young students to pursue careers in science and engineering, which will support the growth of key industry sectors and the realisation of major defence and mineral resource projects.)*	100
Miscellaneous projects *(Aimed at developing policy, programs and initiatives to support industry competitiveness in the State.)*	50

The increase in 2007-08 is mainly attributable to the Northern Advanced Manufacturing Industry Group (NAMIG) project, approved through the 2007-08 Budget Bilateral process.

DEFENCE GROWTH PROGRAM

82. **Dr McFETRIDGE:** With respect to the Defence Industry Development Program:

(a) why was there a $242 000 underspend in 'employee benefits and costs' in 2006-07;

(b) how many fulltime Public Sector employees and contractors, respectively, are employed under this Program and what is the cost of employing contractors;

(c) what are the details of the payments to consultants in 2005-06;

(d) why has there been a $601 000 overspend on 'supplies and services' in 2006-07; and

(e) what is the reason for the $369 000 reduction in 'grants and subsidies' in 2007-08?

The Hon. K.O. FOLEY: The Department of Trade and Economic Development (DTED) has advised the following:

(a) The decrease in employee benefits and costs in 2006-07 of $242 000 is due to contractors being appointed in lieu of appointing staff.

(b) The number of fulltime Public Sector employees and contractors employed under this program is 3 and 7, respectively. The cost of employing contractors under this program during 2006-07 was $629 000.

(c) The following consultants were paid during 2005-06:

Consultant	Description	Amount $'000
Paul Dibb & Associates	High level advice and analysis on Commonwealth Defence Policy	36
Ian Chessell	High level advice and analysis on Systems Integration / CEDISC	5
SA Centre for Economic Studies	Economic analysis—availability of engineering skills	7
Woodhead International	Planning and Design option—AWD Systems Centre	1
WT Partnership	Quantity Surveying Services for Systems Centre location	1
University of South Australia	Establishment of CEDISC and Chief Executive consulting costs, strategy development	59
ACIL Tasman	Consulting fees for shipbuilding industry submission	27
Department of Administrative and Information Services	Fee for project management consulting services re EDS	28
Coffey Geosciences	Dredging geotechnical investigations	163
MHM	Defence Ready Program development	24
GHD	Development of Army Presence in SA Business Case	276
KAZ technology	Delivery and ongoing management of Defence Skills Institute	149
GHD	OMP—Engineering and planning services	43
Crosby Textor	Strategic advice on defence issues	30
Ernst & Young	Professional services and study of market demand for land at OMP and shiplift	92
SA Centre for Economic Studies	Economic consultancy—availability of engineers in defence sector	1
Total		942

(d) The increase in supplies and services in 2006-07 is mainly due to the transfer of expenditure from employee benefits and costs to supplies and services as a result of employing contractors in lieu of appointing staff.

(e) The decrease in grants and subsidies is due to a reduction in funding of the Defence Skills Institute and the Centre of Excellence in Defence and Industry Systems Capability (CEDISC). Larger (injection) funding was required for CEDISC in 2006-07 to get the project off the ground while funding was approved on a reducing scale for the Defence Skills Institute in order to promote self sufficiency.

TRANSPORT SAFETY AND REGULATION SERVICES PROGRAM

94. **Dr McFETRIDGE:** Why was no amount budgeted for 'depreciation and amortisation' under the Transport Safety and Regulation Services Program in 2006-07?

The Hon. P.F. CONLON: I provide the following information:

The completion of Phase 1 of the Transport Regulation and User Management Processing System (TRUMPS) occurred in mid 2006-07. Consequently depreciation is reported against the 2006-07 Estimated result and the 2007-08 Budget. Prior to TRUMPS the Transport Safety and Regulation Services Program did not include any depreciable assets.

95. **Dr McFETRIDGE:** What are the details of the $399 000 allocated for 'other' expenses under the Transport Safety and Regulation Services Program in 2007-08?

The Hon. P.F. CONLON: I provide the following information:

The $399 000 represents a small proportion of corporate overhead charges that have been allocated to 'Other' expenses' under the Transport Safety and Regulation Services Program in 2007-08.

96. **Dr McFETRIDGE:** Why is there a budgeted $7 6 million decrease in income from the 'sale of goods and services' under the Transport Safety and Regulation Services Program in 2007-08?

The Hon. P.F. CONLON: I provide the following information:

During 2006-07, revenue received from Customer Service Centres was reported under Program 3 Transport Safety and Regulation services. Following the transfer of the Service SA program from the former Department for Administrative and Information Services (DAIS) to the Department for Transport, Energy and Infrastructure (DTEI) the income associated with the collection of revenue by Service SA Customer Service Centres is now reported under program 10—Service SA.

MANAGING RAIL AND PUBLIC TRANSPORT INFRASTRUCTURE ASSETS PROGRAM

108. **Dr McFETRIDGE:** Under the Managing Rail and Public Transport Infrastructure Assets Program, what are the details of all rail and public transport infrastructure projects currently in progress, the cost allocated to each project and the timeframe in which they will be completed?

The Hon. P.F. CONLON: I provide the following information:

The Managing Rail and Public Transport Infrastructure Assets Program contains operating expenditure only for managing rail and public transport infrastructure assets, including disposal of rail property. There are no major rail and public transport infrastructure projects within this Program.

TRANSADELAIDE RAIL ASSETS

109. **Dr McFETRIDGE:**

1. What was the total depreciation cost associated with the transfer of TransAdelaide's rail assets to the Department and when were these assets valued to obtain the original value by which the depreciation cost was calculated?

2. What is the current value of these assets and have they been valued recently?

The Hon. P.F. CONLON: I provide the following information:

The total annual depreciation cost in 2006-07 (the last full year of rail assets ownership by TransAdelaide) was estimated at $21.075 million (Budget Paper 4, Volume 2, page 6.82).

As at 30 June 2007 the rail assets (consisting of Land & Improvements, Plant & Equipment and Intangibles) had an estimated value of $646.982 million (Budget Paper 4, Volume 2, page 6.83). This included approximately $132.82 million of Land assets that do not get depreciated, leaving $514.162 million of depreciating assets.

The assets have been valued within the last five years, which is within the stated guidelines of APF 3 'Asset Accounting Framework.'

RAIL YARD RELOCATION

115. **Dr McFETRIDGE:** What are the details of the works that will be undertaken in 2007-08 as part of $2.1 million allocated to relocate the rail yards?

The Hon. P.F. CONLON: I provide the following information:

The 2007-08 Budget has allocated $157 000 000 over 4 years for the relocation of the Adelaide Railyards and for new signal facilities to modernise the rail network and to prepare the site for the Marjorie Jackson-Nelson hospital.

The proposed expenditure for 2007-08 is $2 100 000. This money will be applied in managing, planning and undertaking preliminary works to address the complex logistics and detailed programming to effectively stage the relocation works whilst maintaining functional operations such as fuelling, maintenance and train control activities.

FARE COLLECTION SYSTEM

116. **Dr McFETRIDGE:** Why has only $400 000 been allocated to the Replacement Fare Collection System, what is the long term plan and funding requirements to upgrade the system, and what systems are being considered to replace the current ticketing system?

The Hon. P.F. CONLON: I provide the following information:

$400 000 has been allocated to the project to plan the replacement of the system. This will include preparation of a specification so as to undertake further market testing to determine more closely the total cost and timeline for implementation of the new system.

TRANSADELAIDE RAIL NETWORK

120. **Dr McFETRIDGE:** What is the detail of the work undertaken on the upgrading or replacement of bridges on the TransAdelaide Rail Network in 2005-06 and 2006-07 and what work will be undertaken in 2007-08?

The Hon. P.F. CONLON: I provide the following information:

In the 2005-06 Financial Year:

(i) Outer Harbor Line, Rosetta Street Rail Bridge—Lead removal and painting of exposed surfaces.

(ii) Noarlunga Line, Grand Central Avenue Road Bridge—Finalisation of planning and commencement of construction work to replace the bridge.

(iii) Belair Line, Coromandel Parade Road Bridge—Upgrade of concrete deck, the installation of traffic barriers and the replacement of pedestrian fences.

In the 2006-07 Financial Year:

(i) Noarlunga Line, Grand Central Avenue Road Bridge—Construction of the replacement bridge was completed.

(ii) Gawler Line, Little Para River Rail Bridge—Lead paint removal and painting of the steelwork.

(iii) Gawler Line, South Para River Rail Bridge—Lead paint removal and painting of the steelwork of the two end spans.

(iv) Belair Line, Showgrounds Drain Rail Bridge—Replacement of timber transoms.

(v) Outer Harbor Line, Port Adelaide Station Viaduct—Repairs to structural steelwork, lead paint removal and painting of selected surfaces.

Proposed work for the 2007-08 Financial Year:

(i) Outer Harbor Line, Port Adelaide Station Viaduct—Repairs to structural steelwork, lead paint removal and painting of selected surfaces.

(ii) Gawler Line, Torrens River Rail Bridge—Replacement of timber transoms.

(iii) Gawler Line, Elizabeth South Rail Bridge over Drain—Replacement of timber transoms.

SAFE RAILWAY PEDESTRIAN CROSSINGS PROGRAM

121. **Dr McFETRIDGE:** Why is there a $1.2 million reduction in funding for the Safe Railway Pedestrian Crossings Program in 2007-08?

The Hon. P.F. CONLON: I provide the following information:

The apparent reduction in funding in 2007-08 is due to the transfer of TransAdelaide's assets to DTEI on 1/1/08.

TRANSADELAIDE

140. **Dr McFETRIDGE:** With respect to revenue received by TransAdelaide:

(a) are approval rates for ad hoc events such as advertising promotions and bus parking fees by the property manager currently supported by documentation:

(b) was the significant uncorrected variance identified between the general ledger and the payment summaries received for the Passenger Transport Authority Division contract income as at 31 December 2005 rectified;

(c) are Instrument of Delegations and Authorisations within TransAdelaide consistent with the Treasurer's Instructions for the authorisation of debt write-off's; and

(d) is there a current process to ensure that all invoices and credit notes have been accounted for in the TransAdelaide financial system?

The Hon. P.F. CONLON: I provide the following information:

(a) Yes;

(b) Yes;

(c) Yes;

(d) Yes.

141. **Dr McFETRIDGE:**

1. Have all non-current outlays within TransAdelaide been expensed in accordance with the requirements of AASB 116 Property, Plant and Equipment?

2. Have all capital expenditure invoices within TransAdelaide been authorised for payment by officers with delegate authority?

The Hon. P.F. CONLON: I provide the following information:

1. The requirements of AASB 116 have been complied with.

2. I am advised that all expenditure within TransAdelaide has been authorised for payment in accordance with delegated authorities.

TRANSADELAIDE BRIDGES

143. **Dr McFETRIDGE:**

1. Why was there an underspend of $801 000 on the upgrade or replacement of bridges on the TransAdelaide rail network?

2. Why was only $397 000 allocated for the 2007-08 year for the upgrade or replacement of bridges on the TransAdelaide rail network when $2.2 million was budgeted in 2006-07?

3. Why are wooden bearers being used for bridge repairs on the Gawler line and how many bridges will be repaired?

The Hon. P.F. CONLON: I provide the following information:

1. There has been no underspend. The expenditure of $0.8 million was made in 2005-06 instead of 2006-07 as forecast.

2. Allocation in TransAdelaide's forward estimates for the 2007-08 year was $0.794 million for the upgrade or replacement of bridges. As indicated in the State budget papers rail assets will be transferred from TransAdelaide to the Department of Transport, Energy and Infrastructure effective from 1 January 2008. As a result the allocation to TransAdelaide for the first half of the year is $0.397 million—half of the original $0.794 million. The $2.2 million allocated in 2006-07 reflected the cost of completing the total replacement of the bridge at Grand Central Avenue on the Noarlunga line.

3. Timber bearers are used to carry railway tracks over open decked bridges. The timber bearers are located on the open girders and secured with holding down bolts.

MARION INTERCHANGE

144. **Dr McFETRIDGE:** Why is there a $2 million underspend on the Marion Interchange, what is the current status of the project, what work is still to be undertaken in 2007-08 and what further delays can be expected?

The Hon. P.F. CONLON: I provide the following information:

Extensive community consultation was undertaken during mid to late 2006 to ensure that the project met the needs of the local community. Coupled with extended negotiations with the construction Contractor the project was slightly delayed resulting in an underspend in the 2006-07 year.

Construction work on the project has commenced and the project is due for completion in March 2008.

RAILWAY PEDESTRIAN CROSSINGS

146. **Dr McFETRIDGE:** How much funding will be allocated in forward years to the Safe Railway Pedestrian Crossings?

The Hon. P.F. CONLON: I provide the following information:

The Forward Estimates for the Safe Railway Pedestrian Crossings include an annual funding of $1.5 million escalated into future years as follows:

2007-08	$1.5 million
2008-09	$1.538 million
2009-10	$1.576 million.

RAIL PASSENGER TRANSPORT SERVICES PROGRAM

147. **Dr McFETRIDGE:** Why has 'other expenses' under the Operate and Maintain Metropolitan Rail Passenger Transport Services Program decreased by $2.6 million in 2007-08?

The Hon. P.F. CONLON: I provide the following information:

The 'other expenses' line has decreased by $2.6 million due to the reduction in costs and other expenses forecast resulting from the transfer of TransAdelaide's assets and debt to the Department for Transport, Energy and Infrastructure, due to take place on 1/1/08.

BUS REFURBISHMENT

149. **Dr McFETRIDGE:** Who will be contracted to undertake the refurbishment of the 65 buses and what is the specific cost of undertaking this refurbishment?

The Hon. P.F. CONLON: I provide the following information:

The following companies were appointed to a panel contract for this work following a Public Tender process:

1. North East Bus Repair Pty Ltd
2. Custom Care Pty Ltd
3. All Transport Industries Pty Ltd
4. Bus Stop Adelaide Pty Ltd

This refurbishment is to undertake structural repairs including corrosion, the true extent of which is often only visible when panels are removed. The actual cost of structural repairs therefore varies.

PUBLIC TRANSPORT SERVICES PROGRAM

150. **Dr McFETRIDGE:** With respect to the Public Transport Services Program in 2007-08—

(a) why was there a $5.2 million decrease to 'other expenses';
(b) why was there a $5.4 million decrease to 'supplies and services'; and
(c) why was there a $7.7 million increase in income from the 'sale of goods and services'?

The Hon. P.F. CONLON: I provide the following information:

(a) The $5.2 million decrease is due to the re-classification of 'other expenses' to 'supplies and services'.
(b) The $5.4 million decrease to 'supplies and services' is due to:
   - Contract payment to TransAdelaide resulting from the transfer of Rail Assets from TransAdelaide to DTEI; and partially offset by
   - The re-classification of 'other expenses' to 'supplies and services'.
(c) The $7.7 million increase is from higher Metroticket sales due to anticipated increase in patronage.

TRANSADELAIDE

162. **Dr McFETRIDGE:**

1. Is there a process in place to check the quality or value of items on the Bombardier issues reports prior to using the issues report to invoice Bombardier or the use of stock owned by TransAdelaide?
2. Has the provision for stock or inventory obsolescence been reviewed in 2006-07?

The Hon. P.F. CONLON: I provide the following information:

1. The condition of the TransAdelaide owned stock is visually inspected for suitability at the time of doing a stock-take. The stock-takes are undertaken on a six (6) monthly cycle and items of stock which are considered to be either in unsuitable condition or obsolete are identified at that time for disposal.
2. Yes.

FLOOD MITIGATION REPORT

200. **Ms CHAPMAN:** Will the Government support the installation of retention basins in the South Parklands, as outlined as a priority mitigation project in the Brownhill and Keswick Creeks Flood Mitigation Report dated December 2006 and if so, when?

The Hon. P.F. CONLON: I provide the following information:

The Rann Government is the first to recognise the importance of stormwater management and take the lead in working with Local Government on long-term solutions. In this regard, the *Local Government (Stormwater Management) Act 2007* has been passed by both Houses of Parliament and came into operation on 1 July 2007.

This Act provided for the establishment of the Stormwater Management Authority (SMA) represented by both State and Local Government. The SMA will support floodplain mapping and the preparation of stormwater management plans, as well as prioritise stormwater infrastructure works and accelerate the implementation of catchment-wide priority projects.

The Adelaide and Mount Lofty Ranges Natural Resources Management Board, in collaboration with the Adelaide, Burnside, Mitcham, Unley and West Torrens Councils, has coordinated the preparation of the Brownhill and Keswick Creeks Flood Management Master Plan.

I understand these Councils are working together towards the implementation of a range of flood mitigation components identified in the Master Plan across the Brownhill and Keswick Creek Catchment.

I am advised that a series of detention basins in the South Parklands is among the identified mitigation components in the Master Plan.

The Stormwater Management Committee (the interim body which was in operation until the Act came into effect) previously approved a funding allocation to progress detailed design work on the Brownhill Flood Control Dams, which is an important part of the Brownhill and Keswick Flood Mitigation Scheme.

I am advised that the Councils will consider making further applications to the SMA for consideration of funding towards implementation of the various mitigation components in the Master Plan.

DOMESTIC PROPERTY RIGHTS

In reply to **Ms CHAPMAN** (23 October 2006).

The Hon. J.M. RANKINE: The Premier's Council for Women has not been asked to comment, and has not made any particular recommendations in the regular reports the Council provides to the Premier and myself on this specific issue. The Government does not direct the activities or advice that it receives from the Premier's Council for Women, but values the independent advice provided by the diverse range of expertise provided by the members of the Council.

DESALINATION PLANT, MARION BAY

In reply to **Mr GRIFFITHS** (24 April).

The Hon. M.D. RANN: The Department of Trade and Economic Development has provided the following:

The South Australian Government's focus, at present, is on desalination plant opportunities of State significance.

As the honourable member would be aware, the South Australian Government has signed a memorandum of understanding with BHP

Billiton to investigate the development of a large-scale desalination plant in the Upper Spencer Gulf.

The government is investigating adding additional capacity to the plant proposed by BHP Billiton, in order to provide reliable water supplies to communities in the region.

The Upper Spencer Gulf proposal would allow for a significant reduction in drinking water supplies from the River Murray as well as significant economic development opportunities for the State.

More broadly, the South Australian Government has established a Desalination Taskforce to investigate other opportunities of State significance.

The South Australian Government is keen to encourage innovation and development in relation to sustainable water and renewable energy supply, and to that end committed $10,000 via the South Australian Tourism Commission in 2005-06 for a desalination plant for Marion Bay and its caravan park. I congratulate the District Council of Yorke Peninsula on its pursuit of a small scale desalination project at Marion Bay.

GENERATIONAL HEALTH REVIEW

In reply to **Ms CHAPMAN** (19 June).

The Hon. J.D. HILL: I am advised:

On 9 May 2007 at 5.18 p.m., the Department of Health's web server security was compromised, forcing temporary closure of 30 websites, the Generational Health Review website being one of them.

Following the security breach the Generational Health Review Report was transferred on 7 June 2007 to the Department's Health Care Plan website alongside other relevant content.

DROUGHT

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Mr Speaker, five years on from the 2002 drought, South Australia is still caught in the vice grip of another devastating drought, and again so many in our rural communities are suffering. While early seasonal rains were welcomed, well below average winter rainfall has left many of South Australia's rural communities facing significant losses and heartache. In some areas the cumulative growing season rainfall is in the lowest 10 per cent on record. According to the Australian Bureau of Agriculture and Resources Economics (ABARE), South Australia's 2007-08 winter crop production, originally forecast to be seven million tonnes, has been downgraded to 4.1 million tonnes, but will drop much lower without rainfall. However, I am being told that for some, even if we get late rains, it is too late to save this season. Access Economics comments:

> . . . no state has suffered more than South Australia from the current drought. . . the drought is more than halving the state's output growth this year.

While this nationwide drought is the most savage on record and many parts of South Australia's agricultural community are suffering its effects, many farmers remain stoic about their ability to get through it. Most of all, they want to stay on the land and in their communities. The agriculture, food and fishery industry is one of South Australia's most valuable. Annually it produces around $3 billion in production. Only Tasmania has a higher level of reliance on agriculture, food and fishing.

What farmers need, more than anything, to get through this difficult time is our support at every level of government. This government has always been committed to doing what we can to help our farming communities suffering through the worst effects of drought. We have already done a great deal to help with drought aid, including committing more than $60 million in assistance to farming communities. An unseasonably warm and windy day on 28 August and a day of high winds and record temperatures on 30 August had a devastating impact on the yield potential of many grain crops across the state, which had seen little or no rain for months. These two days, I am told, added significantly to the rapid deterioration of our crop production.

It was against this background that the acting minister for agriculture and I visited farmers on the Eyre Peninsula on Sunday and yesterday to hear for ourselves their concerns and what we could do to assist them. We were accompanied by the acting chief executive of PIRSA, Geoff Knight, the chair of the South Australian Drought Response Team, Ben Bruce, and other PIRSA officers involved in drought recovery. We flew into Cleve and visited farmers from Kyancutta through to Darke Peak, Wudinna, Wirrulla and Streaky Bay. The farmers on the Eyre Peninsula have seen drought many times before and they realise this will not be the last.

Many of those we met have worked extremely hard to adapt to their conditions. They have radically changed their farming practices to ensure the land is better managed, that their top soils remain in place and that their crops are seeded with minimum disturbance to the soil. There is, visibly, high quality land management at work on the Eyre Peninsula. People were telling us their stories of low till or no till or direct drill seeding. The farmers we met gave us a range of views about what the state and federal governments can do to help them stay on their land, continue to bring in an income and, importantly, keep their communities economically and socially viable.

Almost without exception, farmers agreed that what was needed was an overall drought response coordinator—someone who understands the Eyre Peninsula, someone who is experienced in all aspects of drought recovery. Based on the success of appointing an overall coordinator to direct the Eyre Peninsula bushfire recovery program, the acting minister and I decided, late yesterday, that we would appoint the same type of coordinator to help those farmers and their communities.

We anticipate this approach of appointing a regional drought coordinator may be matched in other areas of the state. Other regions have also been hit hard and primary and other industries reliant on the River Murray are being affected dramatically by our record low inflows to the Murray-Darling Basin. The role of the drought coordinator will be to provide farmers with a single point of contact and expertise for all drought measures. That person will be their conduit into government and will have the power to coordinate initiatives on behalf of the community.

Based on our talks with farmers yesterday and Sunday, this government will also:

1. Extend the Planning for Recovery initiative that provides grants of $4 000 for development of integrated business plans, plus up to $10 000 to make on-farm changes. There is already $8 million allocated to this program to support 570 farm enterprises receiving exceptional circumstances interest rate subsidies.

2. Initiate a Young Farmers Package, comprising a rural leadership program to target up to 20 leaders in drought-affected regions. The government will fund their travel and support costs to become mentors in their community and to help strengthen community capacity among younger farmers.

3. Lobby the federal government to loosen the exceptional circumstances eligibility criteria for farmers and small business, including a more liberal treatment of off-farm properties as part of their assets test and to help streamline

and accelerate the processing of applications to the federal government.

People were telling stories about how, under the current assets test, their ownership of shacks at Venus Bay—shacks that might have been owned by their family for several generations—was precluding farmers in a real crisis from getting access to funds. They also asked for a speeding up of the changes to exceptional circumstances in terms of preparing the applications.

4. Organise for the acting minister for agriculture and PIRSA chief executives to meet with key financial institutions, including banks and traders, to advocate on behalf of farmers facing harsh circumstances.

5.Commit, through PIRSA, to continuing the highly successful farming systems project, which operates out of the Minnipa Research Centre. Commitment will now be sought from other funding partners.

6. Develop, through TAFE SA, expanded off-farm employment and training options within the region. For example, they could be offered training in truck driving and other skills.

Members interjecting:

The Hon. M.D. RANN: Yes. It would be good for you to support the farmers we spoke to yesterday rather than playing politics.

7. Facilitate discussions with key mining companies aimed at innovative approaches to rostering to enable people to continue living on their farms while working in the booming mining sector to the north of Eyre Peninsula to ensure communities remain together.

Today's hot and dry weather conditions only add to an already dire situation. It means that our state's export production will fall in 2007-08. Our aim now is to ensure that drought-ravaged communities remain in place, that they are helped through the hard times, and that these communities—their small businesses, their services, their mental and social wellbeing—remain vibrant.

The government already has in place a drought hotline and website providing a single point of contact for people wishing to obtain information on drought-related matters. A self-help book *Taking Care of Yourself and Your Family* was distributed for free to provide basic information on mental health and advice for helping others. There has been a concerted effort by the government to support the wellbeing of our farmers and rural communities. This includes farm debt mediation; community support grants; drought information workshops; mental health training for schools; the apprentice retention program; mortgage stamp duty relief; additional mental health counsellors; postponement of freehold lease payments; levy waivers for River Murray irrigators; research and development into drought tolerant perennial horticulture, grains and pasture; farmer peer support network development; School Card support for drought-affected families; and additional rural financial counselling support.

While the state has lead responsibility for disaster response (such as bushfires), the Australian government has lead responsibility for drought response. This is predominantly delivered through the exceptional circumstances (EC) program. This government is pleased that this drought has to date not become a partisan issue. The government also recognises that irrigators face additional risks and uncertainties. Already irrigation workshops are being held throughout the affected areas, and information is being provided about water flows and quality to enable early decisions by irrigators. Cabinet will be considering a comprehensive response to the dire situation facing river communities in coming weeks.

We have also been pleased to work in a bipartisan manner with the Australian government and the National Party federal Minister for Agriculture to obtain EC support for our farmers. We have also worked together with federal agencies such as Centrelink, and I have written to the Prime Minister urging him to favourably consider the EC applications by South Australia's rural communities. This close collaboration has resulted in much of South Australia now being EC declared. Several state Liberal MPs, such as the member for Hammond, the member for Finniss and the member for MacKillop, have also put their political differences aside in the interests of their communities by participating with the government in EC case preparations and via regional drought response groups.

This government will continue to visit other regional communities to discuss their needs during this period of drought. Various visits are undertaken, of course, by ministers and myself in the course of our ministerial duties and through our regular community cabinet meetings. Last week, for instance, cabinet visited Kangaroo Island for two days, bringing to 22 the number of community cabinet meetings held in rural areas and more than 45 other rural visits by me as Premier. This engagement will continue.

South Australian food and wine producers provide jobs for almost one in every five working people in South Australia and generate more than half our exports. At a community cabinet meeting during this year's Royal Adelaide Show I launched the Buy SA campaign, encouraging all South Australians to buy locally made and produced products. I urge all South Australians to seriously consider our farmers when making purchases, and to stand with this government in helping to ensure the survival and wellbeing of all of our regional communities.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. P.F. Conlon)—

- Leases of Properties Held by Commissioner of Highways—Report
- Correction to an Estimates Committee Question—Land Management Corporation

By the Attorney-General (Hon. M.J. Atkinson)—

- Regulations under the following Act—
  - Associations Incorporation—Prescribed Association
- Rules of Court—
  - Supreme Court—
    - Domestic Partner
    - Corporations
    - Criminal Appeal

By the Minister for Health (Hon. J.D. Hill)—

- Regulations under the following Act—
  - Environment Protection—Prescribed Bodies

By the Minister for State/Local Government Relations (Hon. J.M. Rankine)—

- Local Government Election Report, November 2006
- Local Council By-Laws—
  - Renmark Paringa Council—No 8—Cats

By the Minister for Consumer Affairs (Hon. J.M. Rankine)—

- Regulations under the following Act—
  - Liquor Licensing—Spalding Rodeo.

NATURAL RESOURCES COMMITTEE

Mr RAU (Enfield): I bring up the 10th report of the committee, being the Annual Report 2006-07.

Report received and ordered to be published.

Mr RAU: I bring up the 11th report of the committee, entitled 'Kangaroo Island Natural Resources Management Board Levy Proposal 2007-08'.

Report received and ordered to be published.

Mr RAU: I bring up the 12th report of the committee, entitled 'Northern & Yorke Natural Resources Management Board Levy Proposal 2007-08'.

Report received and ordered to be published.

Mr RAU: I bring up the 13th report of the committee, entitled 'South-East Natural Resources Management Board Levy Proposal 2007-08'.

Report received and ordered to be published.

Mr RAU: I bring up the 14th report of the committee entitled 'Eyre Peninsula Natural Resources Management Board Levy Proposal 2007-08'.

Report received and ordered to be published.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

Mr KENYON (Newland): I bring up the 10th report of the committee entitled 'Inquiry into Law and Process Relating to Workplace Injuries and Deaths in South Australia'.

Report received and ordered to be published.

VISITORS TO PARLIAMENT

The SPEAKER: I draw to the attention of honourable members the presence in the chamber today of students from St Mark's Lutheran Primary School, who are guests of the member for Kavel, and a delegation from the United States consisting of Representative Toni Berrios, Representative Laurie Funderburk, Mr Cary Johnson, Representative Adam Koenig, Representative Paul Kohls, Representative Thomas Reynolds and Representative Wes Hilliard, who are here on an exchange hosted by the Australian Political Exchange Council and who are my guests.

QUESTION TIME

DESALINATION PROJECTS

Mr HAMILTON-SMITH (Leader of the Opposition): Does the Premier stand by his promise on 11 September 2007 that Adelaide will definitely get a desalination plant?

The Hon. M.D. RANN (Premier): Yes.

AIR WARFARE DESTROYER PROJECT

Mr PICCOLO (Light): Can the Premier inform the house what the South Australian government is doing to boost our air warfare destroyer project?

The Hon. M.D. RANN (Premier): I am very pleased to answer this question. As members know, we have won billions of dollars of defence projects for this state. And, of course, the air warfare destroyer project is—

Mr Williams interjecting:

The Hon. M.D. RANN: What was that?

Mr Williams interjecting:

The Hon. M.D. RANN: Now they are attacking the defence bids—people such as Robert de Crespigny and General Cosgrove. Will they please get behind our state. It is also at odds with their leader, because that bid was led by Admiral Scarce, who is the new Governor of South Australia. He did an outstanding job in leading that campaign to win the air warfare destroyer project. Let me just say this. We now have an opportunity to get a fourth air warfare destroyer. The decision to go for the Navantia Spanish design rather than the US Arleigh Burke evolved designed for Gibbs & Cox means that it is a smaller vessel and it is a cheaper vessel. It gives us an opportunity to get four air warfare destroyers and substantially lengthen the life of the project—and, of course, that is about thousands of jobs in this state and much more economic activity. So, we have an opportunity in the next few days to convince the Prime Minister to sign the deal for a fourth air warfare destroyer before an election is called and before we go into the caretaker period.

An honourable member interjecting:

The Hon. M.D. RANN: I understand that the Prime Minister may be here tomorrow, and I also understand that the executives from Navantia in Spain have come to Australia. So, here is an opportunity not just to sign for three air warfare destroyers but to sign for four.

The Hon. P.F. Conlon: Didn't he bag the Spanish one?

The Hon. M.D. RANN: We do remember, of course, that the current Leader of the Opposition bagged the Spanish design—and he had influence, apparently. He was on the phone to the federal government doing a bit of arm twisting, basically telling the federal government, no, the evolved Arleigh Burke design was the way to go. We saw how much clout he had with the federal government. I am again calling upon the federal government to commit to build a fourth air warfare destroyer in South Australia before the federal election is called. I understand that executives from Navantia (which will design the air warfare destroyers) have been in Australia since last week. The caretaker provision would prevent the signing of a contract for a fourth ship after the calling of a federal election, which is perhaps only days away. I do not want to see a decision in Australia's national interest in having a fourth ship being delayed by the election. Industry and defence experts advise me that a fourth ship makes very good sense.

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: He talks about Kevin Rudd's position. Kevin Rudd has announced that the next generation of submarines will be built here. Maybe you can use your famed clout with Alexander Downer, your good friend. Pick up the phone and speak to Alex and say, 'Why don't you match what federal Labor is promising', which is the next generation of submarines being built in South Australia. You and Alex clearly get on well. If anyone thinks that that was not planned; that was the stiletto in the back, let me tell you. This was not someone with a stocking over their head coming through the night. Putting the stiletto in the back of the Leader of the Opposition was out there and on the front page, and if anyone does not think that that was not part of other things that are going on behind the scenes in relation to the

Leader of the Opposition's future, then they have not been around politics that long.

Industry and defence experts advise me that a fourth ship makes very good sense. It would allow the more effective operation of the ships as a key plank of Australia's defence. It would free up more ships to be on active service, whilst allowing for necessary maintenance. From an industry point of view, a fourth ship would not only provide more work but also allow for greater efficiency in the delivery of the project, with its sophisticated high technology and vast engineering challenges. The fourth ship would extend the life of the project from about 2017 to around 2020, guaranteeing future long-term jobs. It would also add more than $1 billion to the multibillion dollar air warfare defence project, which is already the largest defence contract of its type in Australia's history.

We as a state government have been prepared to invest to support this project of national importance, and one that will help drive South Australia's growth as an advanced and innovative economy into the future. We are investing more than $370 million in developing Techport Australia, a major piece of infrastructure that will underpin this project, together with the 4 000 direct and indirect jobs it will support, as well as maritime and construction projects well into the future. Construction on the new defence skills centre has already started, and, of course, we will see the new systems centre established there as well. We are very pleased that Raytheon has been ramping up its commitment to our state—more than 300 jobs already.

Unlike the Leader of the Opposition, we consider this an investment well worth making for the future of this state, but then the leader is given to making unfortunate remarks about this key project for South Australia. The fourth ship is a possibility precisely because the federal government chose the off-the-shelf Navantia design which was less expensive than its competitor. The South Australian government considered it would have been unwise to attempt any interference in the selection of the designer by the commonwealth. However, what did the Leader of the Opposition do? He lobbied publicly for the competitor design, which was ultimately not chosen. He said:

> The one that should be preferred, and what I'd like to see the Premier do is come out and join us in lobbying for this design to be the one that is chosen.

I understand that his federal colleagues, such as Nick Minchin, made their displeasure at being told what to do by the leader known in no uncertain terms. So, maybe, that is just part of the reason we saw the federal Minister for Foreign Affairs come out publicly against the state Liberal leader. He wants your job, and I would welcome that. I can say that he would be the sixth Liberal leader I have faced during the 13 and more years I have been leader of the Labor Party. I look forward to facing Alexander Downer sitting on that side of the chamber.

Members interjecting:

The SPEAKER: Order!

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens will come to order! The Leader of the Opposition.

WATER REUSE

Mr HAMILTON-SMITH (Leader of the Opposition): Thank you, sir. They are so predictable! Does the Premier stand by his statement made to *The Advertiser* on 28 January that he can 'rule out recycled sewerage water being used for Adelaide's drinking supplies'?

The Hon. M.D. RANN (Premier): We have done that. What we are doing is leading Australia in the use of recycled water, and—

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: Yeah, yeah, yeah! Why not? The reason is—

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: Okay. The Leader of the Opposition wants South Australians to drink recycled sewerage water. We want them to use recycled sewerage water when we are using it for things such as the Virginia pipeline and down in McLaren Vale, and that is the difference. Already 20 per cent of the water used is recycled water, and we will grow that up to 45 per cent—massively more than the national average of 9 per cent. There is a clear difference going into the next election—if you want to drink recycled sewerage water vote for Martin Hamilton-Smith!

Mr HAMILTON-SMITH: As a supplementary question, given the Premier's extensive answer to my last two questions, why is his government considering plans for supplementing Adelaide's water supply with treated effluent as an alternative to desalination? You see, the government is leaking! Documents leaked to the opposition reveal—

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition.

Mr HAMILTON-SMITH: —the existence of a confidential Bolivar Waste Water Treatment Plant plan, which would direct treated effluent into households for drinking use. The documents state:

> As an alternative to the desalination plant, SA Water are investigating an indirect potable reuse scheme for supplementing the water supply with highly treated effluent.

The documents go on to say:

> The output from this plant will be pumped to the Little Para Reservoir and transferred to other reservoirs using existing water infrastructure.

I will make them available, but the documents further reveal:

> ETSA Utilities has provided SA Water with indicative estimates for electrical supply to the new facility at Bolivar and associated pumping infrastructure sites. The estimates range from $280 000 for the Glenelg Waste Water Treatment Plant to $42 million for the Bolivar Waste Water Treatment Plant.

The documents then states, 'This project is confidential.'

The SPEAKER: The Deputy Premier.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The Deputy Premier has the call.

The Hon. K.O. FOLEY (Deputy Premier): I am taking this question quite simply because, as the Premier indicated, we ruled out that idea. I would need to see these documents, but when BHP Billiton was considering its options for water supply for the Olympic Dam project, being BHP (and that is the project for which I am responsible from the government's side of things) it was considering desal, but, from memory, SA Water advanced an option that it could also consider the use of treated sewage for the supply of water to Olympic Dam.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Clearly, SA Water for some time had been exploring and looking at ways in which it

could use waste water from Bolivar as treated water. When the meetings and discussions occurred around Olympic Dam I think the member for Lee was the minister at the time. We had a meeting to discuss—

Mr Venning interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: We had a meeting because we were keen as a government to see desal as the option. SA Water for some time had been pursuing options for treated water. We ruled that out in that meeting and in subsequent discussions in relation to what it meant for Olympic Dam.

Mr Venning interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Ultimately had BHP wanted to pursue that option it had every entitlement to pursue that option, but it was clear that BHP was not overly excited by that option. The point I am making is that SA Water is a public corporation. It is a corporatised entity—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I think it was members opposite who made it a corporatised entity, sir—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Just like you did. But, sir, the corporation clearly has been looking at this issue for some time. It tried to sell the idea to BHP. We certainly were not supportive of it for Roxby Downs. We wanted desal, which is exactly what we want for South Australia. Governments are responsible for policy. SA Water is responsible for the operations of its corporation. It is neither excitement nor surprise with which I hear that you are referring to those documents. That is exactly the work I would expect SA Water to be doing. We ruled it out for Roxby Downs and we have ruled it out for Adelaide.

STUDIO 2000

Mrs GERAGHTY (Torrens): Will the Minister for Consumer Affairs inform the house of any further action that has been taken to protect consumers from the allegedly unfair practices by photographic business Studio 2000?

The Hon. J.M. RANKINE (Minister for Consumer Affairs): Members will recall that I earlier informed the house that I had issued a public warning in relation to Studio 2000 as a result of a flood of complaints about their allegedly unfair sales tactics. I can now inform the house that Studio 2000 has signed a written assurance that it will refrain from a range of questionable practices. These assurances are legally binding and if a trader breaches a written assurance given to the Commissioner for Consumer Affairs then the trader can be prosecuted in the District Court.

I am pleased that since I issued the public warning about the company earlier this month the business has agreed to refrain from advertising or promoting any offer which is likely to mislead or deceive consumers; leading customers to believe they have won a prize, unless the customer has won a prize or competition, and that the customer has knowingly entered; making claims that customers will appear in advertisements for the company or establish a modelling career from purchasing photographs, unless such a claim can be substantiated; engaging in unconscionable conduct, such as engaging in high pressure sales techniques, including unnecessarily long sales spiels, confusing price structures, and urging consumers to sign on the spot or lose out on a special promotional price.

Following this issue being raised in the media, the Office for Consumer and Business Affairs received around 80 calls from dissatisfied and disgruntled customers in just 48 hours. The majority of people felt they had been pressured into signing contracts for expensive photographic packages or had been misled by the company, which prompted the urgent public warning that I issued. It is encouraging, however, to see that Studio 2000 is now making changes to improve their practices, and I hope they will continue to trade fairly for the benefit of current and future customers.

The SPEAKER: The gentleman in the gallery who is taking photographs, I do not know if he is an official journalist photographer or not. If he is not then he should not be taking photographs, and if he is he certainly should not be taking photographs of members who are not on their feet. The rules for the news organisations that are agreed to are that only photographs of members on their feet and speaking are to be taken.

DROUGHT

Mr HAMILTON-SMITH (Leader of the Opposition): My question is to the Treasurer. What is the worst-case impact on the budget and government revenues arising from the ongoing drought? The state budget statement, Budget Paper 3, on page 8.3 predicted the following:

> . . . an acceleration in GSP growth to 4 per cent in 2007-08. This assumes a return to more normal rainfall patterns producing a significant increase in farm sector output from the drought-affected 2006-07 season.

We have just heard from the Premier that that output is falling short.

The Hon. K.O. FOLEY (Treasurer): That is correct, and it is not only the Premier who has made such comments, so has the Prime Minister. On the weekend the Prime Minister said—and I will paraphrase his comments; I do not have them with me—that—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: He effectively said that this drought is going on longer than anyone expected. The advice to the government, when we framed the budget, was that there was a strong expectation—and I do not think that this can be disputed; plenty of people were saying it—was that we would return to normal winter rains.

The Hon. J.D. Hill: That is what the modelling showed.

The Hon. K.O. FOLEY: That is what the modelling showed. In the early part of winter that happened. Then, of course, as abruptly as it began, it ended.

Ms Chapman: We are not blaming you for that.

The Hon. K.O. FOLEY: I appreciate that; I am just putting it into some context. I will be bringing down the midyear budget review at the end of this year—the normal period, late December or early January—and that will indicate the current position of the budget. There is no question that the budget has been adversely impacted by the drought in a number of areas including, clearly, in what we call farm production—the farm economy; that is obvious. It has also been affected in terms of dividends from the SA Water utility, and more substantially affected by the expenditure that the government is having to undertake to sustain operations with lower water supply. That also means a

number of other projects for which the Minister for Water Security is responsible.

I am not in a position to give specific numbers today. They will be detailed in the midyear budget review as is the appropriate and normal reporting time. I accept that it is a legitimate question from the opposition; it is a correct question to ask a government. Yes, it has an adverse impact, but I ask you to wait until the midyear review at the end of the year.

RESPOND SA

Ms SIMMONS (Morialta): My question is to the Minister for Families and Communities. How has Respond SA assisted vulnerable South Australians?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable member for her question. In 2004 the government funded Relationships Australia (SA) to establish Respond SA to provide a comprehensive range of services to meet the needs of adult survivors of child sexual abuse. Respond SA has provided services for people requiring support before, during and after the child sexual abuse inquiry—the Children in State Care Commission of Inquiry—led by Commissioner Mullighan. The support that the program has provided to people coming before the commission of inquiry has greatly assisted people going through what for many has been an extraordinarily difficult period in their lives. It has given them support to allow them to come forward to tell their stories, which has been a critically important part of the healing process.

I also wish to acknowledge the role that Respond SA has played in training counsellors to work with victims of sexual abuse. Their training has increased skill levels across the community services and health sectors to assist counselling services to deal with this client group. The commission of inquiry is drawing to a close and is due to report by 31 December this year. Decisions about services to victims of child sexual abuse, and in particular victims of that abuse while in care, will be guided by the recommendations of the commission. Relationships Australia's Respond SA program will also come to a close at the end of the year when its service agreement ends.

I note that the Department for Families and Communities has had preliminary discussions with Relationships Australia, which has indicated its willingness to ensure that people currently receiving its assistance are provided with, advised of and introduced to appropriate relevant alternative services. I thank them for that indication. The Department for Families and Communities will work closely over the next three months with Relationships Australia to ensure that those people get the support that they need. Once again, I would like to thank Relationships Australia for its work in Respond SA, which has assisted many of South Australia's most vulnerable people, and hopefully through their work, and the work of the Mullighan inquiry, to ensure a better future.

MURRAY-DARLING BASIN

Mr WILLIAMS (MacKillop): How does the Premier propose to resolve differences of view—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney-General will come to order.

Mr WILLIAMS: —with the Labor Premier in Victoria over the flow of water into South Australia? The Murray-Darling Basin Dry Inflow Contingency Planning Report, released on 20 September 2007, recommended the establishment of a collective reserve of water to be shared by the Murray-Darling states to ensure sufficient water for river operations and critical urban supplies in 2008-09. Victorian Premier John Brumby has labelled the recommendation as 'completely unacceptable' and 'quite scandalous'. Federal water minister Malcolm Turnbull described the Victorians' position as a national crisis and one in which Victoria was of the view that 'everyone downstream of Victoria should drop dead'.

The Hon. M.D. RANN (Premier): I am very pleased to answer this question. I was also pleased that I had advance notice of it. I am extremely disappointed at Victoria's refusal to release critical water flows into the River Murray. Last week the Murray-Darling Basin Contingency Planning Report was released by the Prime Minister, calling for the establishment of a special water reserve for critical human needs. Victoria has refused to do this, gambling that river inflows next winter will not be as bad. Last Friday afternoon, I met with the Premier of Victoria, John Brumby, and put South Australia's position to him. I will now read a letter that I have written to Mr Brumby, which I think will advocate our position. I know you are interested in this and I will read the whole letter, even though it may take some time.

Dear Premier, at our meeting in Melbourne last Friday, 21 September. . . I informed you of the perilous position South Australia faces because of the continuing record low inflows into the Murray-Darling system.

According to the most recent reports of the Murray-Darling Basin Commission the outlook for water inflows into the system is bleak. A return to the commitment by the Southern Murray-Darling Basin states to the process established at the November 2006 Water Summit for special arrangements in determining available water allocations is imperative in the national interest.

Without the cooperation and goodwill of Victoria and in the event of the drought continuing the potential clearly exists for a serious reduction in the quality and quantity of River Murray water available to South Australia for human consumption.

I am encouraged by your concession in your letter to the Prime Minister that you are willing to consider the establishment of a 2008-09 reserve. I strongly urge you to consider Victoria's position as a matter of urgency.

As agreed at our meeting I am including in this letter our position in relation to the water sharing proposals recommended as part of the arrangements established by the Prime Minister, Premiers and Chief Minister to develop contingency plans to deal with this emerging national crisis.

The Murray-Darling Basin agreement requires New South Wales and Victoria to provide the first 696 gigalitres to South Australia for 'dilution and losses' and then for the sharing of water between all three states. During 2006, it become clear that such water sharing arrangements would allocate South Australia 696 gigalitres for 'dilution and losses' while the NSW and Victorian communities, who rely on the river Murray for water, would have no available water.

This was clearly untenable and first ministers agreed to set aside the agreement provisions and, for the 2006-07 water year, to share the first tranche of water to satisfy critical human needs. This allowed NSW and Victoria to receive 75 and 53 gigalitres of water respectively, which would have normally formed part of South Australia's 'dilution and losses' entitlement.

Victoria was a significant beneficiary of these modified arrangements and received water for both critical human needs and some consumption purposes that would not have been available at that time under normal water sharing arrangements.

The net result of the agreed arrangements is that South Australia, as at 12 September 2007, has been allocated only 567 gigalitres of its 696 gigalitres 'dilution and losses' component and 261 gigalitres for critical human needs and consumption. This compares with 514 gigalitres which have been allocated to Victoria for critical human needs and consumption. In addition, Victoria and New South Wales

share 715 gigalitres to cover river losses upstream of the South Australian border.

The most recent senior officials' report has indicated that, following poor winter rains across much of the Murray-Darling Basin, a situation made worse by very high temperatures and the very low reserves held in the Murray system storages, planning should commence to ensure there is sufficient water for critical human needs in 2008-09.

Earlier planning by senior officials, and supported by the Murray-Darling Basin Commission, indicated that there may be a shortfall between available water resources and the volume necessary to meet critical human needs. This situation is further compounded because in 2008-09 the previous response of reducing South Australia's 'dilution and losses' entitlement to provide water for critical urban needs will not be an option due to deteriorating water quality. In fact, modelling by Murray-Darling Basin Commission experts indicates that water available for 'dilution and losses' will need to be increased if the water is to be fit for human consumption and meet World Health Organisation standards. Accordingly, senior officials have recommended:

> Arrangements (including the possibility of establishing a 'collective' reserve) should be established by the Murray-Darling Basin Commission in 2007-08 to ensure there is sufficient water in 2008-09 to enable operation of the river and delivery of agreed flows (including 696 GL dilution flow to South Australia) as well as provisions to manage projected poor water quality (particularly salinity and algal blooms).

I am advised that Victorian officials have not offered an alternative view to the senior officials group. At our recent meeting, you referred to a set of predicted water availability figures for 2008-09. SA officials are not able to reconcile these to any figures put to the senior officials group. Further, I am advised that Victorian officials have not provided to the senior officials group the water availability figures referred to by you at our meeting. I would welcome your officials discussing these with SA Government representatives as a matter of urgency to obtain a mutual understanding.

The drought in the Murray-Darling Basin has the potential to be even more damaging next year and could see even greater pressure on water supplies for critical human needs. South Australia will be the most affected should this situation arise, with our water supply being significantly compromised.

The current position is threatening the viability of the Murray-Darling Basin Agreement. Throughout the year Victoria has argued that there was no need for the Commonwealth to take over the Murray-Darling Basin because longstanding arrangements worked well. The latest impasse over water needed for critical human needs shows that the old system does not work. We cannot gamble on a better year next year. I am sure you will agree a 'fingers crossed' approach would be irresponsible.

We should act collectively in the best interests of the nation and share the existing scarce available water equitably on a needs basis, placing critical human needs as the first priority as previously agreed by first ministers. I urge you and your government to consider broader national issues and work cooperatively with South Australia, the Commonwealth and the other Murray-Darling Basin states.

The member opposite should have been doing this months ago. He would be aware of a series of meetings, where I, representing South Australia, negotiated with Queensland, New South Wales and the Prime Minister to get an independent commission to run the River Murray. What was he doing: just whingeing from the sidelines.

SCHOOLS, WATER AND ENERGY CONSERVATION

Ms FOX (Bright): My question is to the Minister for Education and Children's Services. What is the government doing to promote water and energy conservation in our schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Bright for her question and for her interest in education. As the house would be aware, we know in this state more than any other the importance of water conservation and reducing greenhouse gases. The government has made a firm commitment to making South Australia clean, green and sustainable, and part of that, of course, is making sure that all government organisations play their part in conservation and good management.

Schools and preschools are major users of water and energy. From 2008, all schools and preschools will be required to reduce their water usage by 10 per cent and energy by 25 per cent. This is based on the South Australian State Strategic Plan targets, and puts our schools and preschools in line with the rest of our community aspirations.

In the next term we will be disseminating green kits to all government schools and preschools, which will give hints and tips about how best to save water. In addition, we are continuing with our annual $1 million Green Schools grants. These are awarded to schools and are used to implement initiatives that save water and energy use. In addition, $1.25 million is being spent in South Australian schools on solar systems, the installation of which continues in our schools and preschools to reach our State Strategic Plan targets. Creating green schools not only helps the environment but also saves money that can be reinvested into education.

Almost half of schools have met their State Strategic Plan water targets already. Our state schools have saved the equivalent—and this is a mind-boggling analogy—of 1 200 Olympic sized swimming pools of water over the last five years. That is, since 2001 water usage has dropped from 5.06 million kilolitres to 3.8 million kilolitres in 2005-06. I am very pleased to advise the house of two schools in particular that have demonstrated that the targets—

Members interjecting:

The SPEAKER: Order! If members have something to say to each other I am happy for them to cross the chamber and talk to each other, not to scream across the chamber while the minister is answering a question. The Minister for Education.

The Hon. J.D. LOMAX-SMITH: Thank you. I recognise two schools that have made extraordinary progress in this area. The Pines Primary School has reduced its water consumption by 40 per cent. The school has achieved this by purchasing stormwater from the Salisbury council, and 30 other schools will be connected to this scheme over the next five years. In addition, one of the exemplars of good management is Gawler High School, which has reduced water consumption by an amazing 60 per cent. This school has changed to an automatic irrigation system and installed a 50 000-litre tank to capture and reuse stormwater. These exemplars of good practice will have ideas and methods that we will spread to other schools in the hope that they can achieve these amazing targets. I congratulate both The Pines and Gawler High schools for being exemplars of good environmental management.

WELLINGTON WEIR

Mr PEDERICK (Hammond): My question is to the Minister for Water Security. Does she stand by the government's assurance that the decision to build a weir near Wellington will not be made before June 2008? In the house on Tuesday 11 September 2007 the Premier said:

> The decision to build an emergency temporary weir can now be delayed until at least June next year.

The Hon. K.A. MAYWALD (Minister for Water Security): Yes.

Mr PEDERICK: My question is again to the Minister for Water Security. Can the minister advise the house whether the environmental impact statement for the proposed weir near Wellington has been completed and, if so, what does it recommend?

The Hon. K.A. MAYWALD: No, the environmental impact assessment has not been completed. It is under way, and the findings will be made public at the time that report is completed.

WORKCOVER

Mr WILLIAMS (MacKillop): Will the Minister for Industrial Relations confirm that the WorkCover unfunded liability as of 30 June this year is now over $800 million, and when will parliament and the public receive full account of the corporation's financial liability?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): The board will announce that position on Thursday.

SUBPRIME MORTGAGE MARKET

Mr GRIFFITHS (Goyder): My question is to the Treasurer. Does the state government, or any of its corporations or entities, have investments in the United States subprime mortgage market?

The Hon. K.O. FOLEY (Treasurer): That is a good question. I am not aware of that, but I will ask Funds SA. I would be very surprised if we did have. One thing that we have done (and I was just commenting on this today to our caucus, when we were talking about the subject of ethical funds) is that Funds SA has been exceptionally well managed as an entity and has a very good board. It is chaired by Helen Nugent, one of the nation's leading corporate directors, who is Chair of Swiss Re and on the boards of Origin and Macquarie Bank, to name just a few.

I remember that when we first came to office we had two negative years of returns in the Funds SA entity; it was two very poor years for equities. I remember being briefed that, with the scope or the style of asset allocation we have in Funds SA, one can expect two negative years out of every eight. Well, I got the first two up front. The reason why I am giving that preamble is that we discussed at the time whether or not we should revisit the reasonably aggressive allocation that we had at Funds SA (and one that, I admit, was adopted by the member's government and continued by this government) and whether we should look at greater use of instruments such as hedge funds—and bear in mind that all of our funds in Funds SA were a manager of managers. We appoint fund managers, such as Perennial and MLC, and whatever, to manage; so we are a manager of managers—sometimes a manager of manager of managers—and that is the most cautious way to do it.

At the time of that undertaking, we looked at a project where we might look at using more hedge funds, derivatives and various other instruments, which were higher risk but which perhaps would give us a higher return. My guess is that, once one started playing in that market space, the likelihood of US subprime being taken up could have been a possibility. We chose not to do that. We chose not to change our strategy. That is not to say that we do not have hedge funds within our entity. However, I would be very surprised if any of them would have exposure to that market. If they did, it would be very minimal. But it is a legitimate question and a good question, and I will take it on notice. Having said that, I am not aware of any reports from Funds SA that it has any impact on its performance, but I will ask the people concerned to have a look for me.

OZASIA FESTIVAL

Mr RAU (Enfield): Will the Minister Assisting the Premier in the Arts provide details of the inaugural OzAsia Festival?

The Hon. M.D. RANN (Premier): I am delighted to answer this question, because it is a fantastic festival. Therefore, I will ask the Minister Assisting the Premier in the Arts—because we almost seamless; we are ad idem—to answer for me.

The Hon. J.D. HILL (Minister Assisting the Premier in the Arts): I am very happy to assist the Premier in this regard.

Ms CHAPMAN: Sir, I rise on a point of order. The Premier has sat down, and that concludes the answer to that question. It is against standing orders for the minister to now stand and take the answer.

Members interjecting:

The SPEAKER: Order! Any minister can get up and answer the question. I acknowledge that the Premier did sit down, but I—

Members interjecting:

The SPEAKER: Order! I show a lot of flexibility to members of the opposition in the asking of their questions, and I intend to show the same reasonableness to the government. The Premier is able to defer to another minister, in any case.

Mr RAU: Sir—

The SPEAKER: It is not necessary to ask the question again.

The Hon. J.D. HILL: Thank you very much, Mr Speaker. I thank the Premier for his confidence in me in this regard.

The Hon. K.O. Foley interjecting:

The Hon. J.D. HILL: Is that right? That is true. This is a very important festival. It is a brilliant new festival of national and cultural significance, which is being presented at the Adelaide Festival Centre at the moment. It began on Friday 21 September and will continue until Sunday 7 October. The inaugural OzAsia Festival is showcasing the ever richer relationships that are developing between Australia and Asia. The festival recognises that many South Australians—52 870, in fact—are Asian born, and many others have family or business connections with Asia. A glorious highlight is a traditional moon lantern parade to be staged at Elder Park this evening. We are hopeful—

An honourable member: I'll be there.

The Hon. J.D. HILL: —and the Premier, I understand, will be there as well—that the wind that is lifting at the moment will not spoil this event. It will feature school children and community groups from right across the state parading with their hand-made lanterns. This free family event, which will be opened with a traditional Buddhist blessing in the rotunda, will also present dragon boats on the Torrens River, story telling, martial arts, music and dance. I am also pleased to inform the house that there has been such a positive response from South Australian schools to the idea of children participating in the moon lantern festival that it has not been possible for all the children to be accommodated

this year, although I understand that provisions are in place to extend it for next year.

The festival provides a wonderful learning focus for Asian studies: 52 181 students in government schools and 3 404 students in ethnic schools study Asian languages. OzAsia will feature 12 remarkable shows: from the energetic Korean ensemble of drummers Dulsori Binari to the Australian premiere of comedian Hung Le's show 'I still call Australia by phone'. Besides ticketed events, there are also visual arts exhibitions and a program of free weekend entertainment and workshops. The festival has included an important opportunity to debate and celebrate our relationship with Asia at the OzAsia Symposium, which took place in the Space Theatre at the Festival Centre over the weekend just gone.

The symposium's opening keynote address 'Australia and Asia: a cultural perspective of developing relationships' was delivered by the Hon. Bob Hawke, the former prime minister of Australia. I wish to pay tribute to his enduring commitment to South Australia both through his membership of the Economic Development Board and his very close relationship with the University of South Australia. Of course, as members would know, he was born in Bordertown in South Australia—our only prime minister to have been born in this state. I am also very proud that our new Lieutenant Governor, Hieu Van Le, has agreed to be the patron of the OzAsia Festival. He and I were with Bob Hawke on the platform on Saturday at the opening. I am delighted to announce that the OzAsia Festival will be held again next year, building on Adelaide's national leadership in creating the event and the warm community interest that it has generated.

I take this opportunity to pay tribute to the Adelaide Festival Trust and also the CEO, Mr Douglas Gautier, and the Artistic Director, for creating the OzAsia Festival for the Adelaide Festival Centre, which goes from strength to strength. I would encourage members of this house to participate in this event, if they can spare the time.

WATER SUPPLY, EYRE PENINSULA

Mrs PENFOLD (Flinders): My question is to the Minister for 'Water Insecurity'. Can the minister advise the house what she intends to do to solve the water crisis caused by pipe blockages in the Ceduna, Streaky Bay and Le Hunte districts? The minister visited this severely drought affected region of Eyre Peninsula recently and was advised first-hand how thousands of dollars worth of pipes are being completely blocked by sediment caused from the poor quality of water supplied by SA Water, adding another huge pipe replacement expense and risk of stock losses that these already stressed farmers do not need.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD (Minister for Water Security): I did, indeed, visit the Eyre Peninsula and the drought-affected regions on Friday last week. During that visit, I met with the mayor and officers from the council in Ceduna, and I also met with the Eyre Regional Development Board representative, Jane Lowe, who gave a fantastic presentation on the master plan work that is being undertaken on the Thevenard ports and also on the airport upgrade that the council is pursuing. They also spoke to me regarding the issue of water supply to the township of Ceduna and the surrounding districts and, indeed, they did show me a pipe which had a section with significant sediment and blockage. I will be seeking advice from SA Water on what it is doing, and I will bring back to the house and to the member a detailed explanation as to the actions that SA Water is undertaking as a consequence of those issues regarding the blockage of pipes.

ABORIGINAL EMPLOYEE AWARD

Ms THOMPSON (Reynell): Will the Attorney-General give the house some information about initiatives undertaken by the Courts Administration Authority to recognise NAIDOC week?

The Hon. M.J. ATKINSON (Attorney-General): The acronym 'NAIDOC' originally stood for National Aborigines and Islanders Day Observance Committee. The committee was once responsible for organising national activities during NAIDOC week and its acronym has become the name of the week itself.

The Courts Administration Authority as part of NAIDOC week celebrations held in July this year makes an annual award to an Aboriginal employee to recognise the contribution that he or she has made to the courts. Mr Tony Sgroi was this year's recipient. A special award was also made to the Murray Bridge Magistrates Court in recognition of the work it has done with the local Aboriginal community. In recognition of improving the level of service and community understanding of court processes, the Courts Administration Authority wanted to acknowledge and recognise in particular the work of non-Aboriginal court staff at the Murray Bridge Magistrates Court for their efforts and services to the Aboriginal community.

Court staff at Murray Bridge have established a good working relationship with Aboriginal community members in an effort to build trust. Feedback from community members listed these reasons for the Murray Bridge Magistrates Court receiving the award:

- the staff all have great understanding of Aboriginal culture and issues, which helps them when dealing with Aboriginal people;
- they are all locals and know most of the Aboriginal families who live there;
- Nunga Court operates in Murray Bridge allowing Aboriginal people to feel comfortable when dealing with their matters;
- the court staff are aware of other relevant agencies, that is, Fran's Farm, Kalparrin Farm and Lower Murray Nungas Club Housing. They refer Aboriginal people to these services for assistance, and I am told that Aboriginal people appreciate their guidance and advice;
- Aboriginal people in general feel most comfortable attending the Murray Bridge court because of the warm reception and assistance when they arrive, starting with the Sheriff's officers and then the magistrate;
- Aboriginal paintings are displayed on the wall in the Nunga Court behind the magistrate's bench.

Mr Tony Sgroi, winner of the Courts Administration Authority's 2007 Aboriginal Employee Award, has been employed as a Sheriff's officer since August 2004.

Members interjecting:

The Hon. M.J. ATKINSON: Having had it brandished at me moments ago, I was just wondering what it was. I thought it was a night stick! According to his managers, Mr Sgroi has always performed his duties in an exemplary manner and above the level required. His interaction with clients, the judiciary and other staff has always been courte-

ous, helpful and team orientated. Mr Sgroi is aware of the various issues facing Aboriginal people both in his role as a Sheriff's officer and in his private life having worked in various communities over the years. Mr Sgroi has been active in promoting the courts as an employer of choice for Aboriginal people and in mentoring new Aboriginal Sheriff's officers.

BUDGET ESTIMATES

Mr GRIFFITHS (Goyder): Treasurer, what are the cost implications above budget estimates for the 2007-08 financial year for all public sector wage increases that have been agreed to since the 2007-08 budget was brought down?

The Hon. K.O. FOLEY (Treasurer): As I indicated earlier—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —the government will bring down the midyear budget review at the normal time, either at the end of the year or early next year, and it will detail the current budget position. We have had some firm but fair negotiations with the union movements over wage outcomes. I have been very pleased with the outcomes that have been achieved both in a budgetary context and in a fairness context for the employees of the government.

PHYSICAL ACTIVITY

Ms CICCARELLO (Norwood): My question is to the Minister for Recreation, Sport and Racing. How is the government promoting physical activity and supporting community involvement in fitness?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): The government actively encourages all South Australians to be more active more often and has developed strong partnerships to promote its Be Active message. Members may have seen that the latest Be Active media campaign has recently hit the airwaves (in addition to television commercials and signage at major shopping centres), which encourages people to look for physical activity opportunities each and every day. The government also supports community activities such as the fortnightly 'Be Active Corporate Cup' competition. Members may have seen the hundreds of participants who every two weeks make their way down to the Torrens running track to try and improve their times. Next month, the government is supporting the 'Be Active 07', a national event comprising four parallel conferences on recreation, sport and physical activity, with approximately 1 000 delegates attending the event, which will be one of the largest recreation and sport themed conferences ever held in South Australia.

The state government is also pleased to have once again provided funding towards the running of the 2007 Sunday Mail City-Bay Fun Run. Apart from the overall number of people participating in the City to Bay, one of the great things about the event is the variety of people who participate, from elite runners to participants in wheelchairs, joggers, and, of course, the many walkers who now take part. It was great to see the Premier out there again, completing 12 kilometres. I was interested to note that there were once again more women than men taking part, with over 13 500 women and approximately 9 500 men registered.

An honourable member interjecting:

The Hon. M.J. WRIGHT: Well, what it says it that there should be more males out there matching it with females. Can I also congratulate the members of the City to Bay organising committee for all their work, and we look forward to it getting bigger and better in years to come, and of course we must recognise all of the volunteers who are out there assisting with the staging of this great event.

WATER RESTRICTIONS

Mr WILLIAMS (MacKillop): Will the Premier rule out the reintroduction of bucket-only water restrictions before the end of summer in March 2008? The Premier issued a media release on 11 September 2007 entitled 'Rann eases water restrictions over summer', but he has since said that they will be reviewed on a monthly basis.

The Hon. M.D. RANN (Premier): This is bizarre. I mean, Mitch—

Mr Williams interjecting:

The Hon. M.D. RANN: Right from the start we have said that water restrictions will be monitored on a monthly basis. My expectation is that drippers will be able to be used throughout the summer, but that we will continue to monitor water restrictions on a month by month basis, as you would expect. If you are telling me that if you were the minister you would not do that, then quite clearly you are not competent enough to hold higher office; you have reached the summit of your ambitions.

PORT STANVAC REFINERY

Dr McFETRIDGE (Morphett): My question is to the Treasurer. What progress has been made on the remediation of the Port Stanvac refinery site, and has the minister been provided with six-monthly reports, as outlined under the terms and conditions of his agreement with Mobil Exxon? If Port Stanvac is the government's preferred site for a desalination plant, how will this impact on the agreement with Exxon Mobil, and have negotiations been held with Exxon Mobil about the impacts?

The Hon. K.O. FOLEY (Treasurer): My advice, as the member outlined, is that Mobil have certain obligations to report to government. I will get a detailed answer for the member as to the—

An honourable member: You should know.

The Hon. K.O. FOLEY: I try to keep abreast of most things for answering questions in the chamber, but it just so happens that I do not have the exact answers here, and in good faith, as always, I will take the question and come back to the member with a detailed answer. But the Port Stanvac site is a very, very large site. Remediation work has commenced. As we have said, there is a reporting regime, which I would assume is being appropriately undertaken. From memory I have not been advised to the contrary. But I will check that and come back to the house.

FAMILIES SA, CARE PLACEMENT

Ms CHAPMAN (Deputy Leader of the Opposition): Will the Minister for Families and Communities explain why a 14 year old girl, the subject of a temporary care placement with the minister, was not delivered up to the Department of Families SA after she was arrested for theft at the Marion Shopping Centre by the police?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Issues relating to families are amongst the most sensitive that we deal with in this place. It is important that some care is taken not to traverse personal details about what is going on within families. It is certainly not my intention to do that here. The whole way in which the Child Protection Act is framed ensures that that sort of material basically does not come into the public sphere. Because we are dealing with troubled young people, we do that to make sure that those personal details do not then become matters of controversy and publicity, which can lead to some very horrible outcomes. That is why we take great care.

If that is an implied criticism of the police force, I utterly reject it. We develop very close relations between Families SA and the police. The sharing of information is an area which is of paramount importance, and it is always shared in appropriate cases. I will see what information should properly be on the public record in relation to this matter, but I will not reveal details which could in any way jeopardise both the interests of this child or of the broader family.

I will, though, offer the honourable member a briefing. Often she is prepared to come into this place with just one side of the story, lay it out in front of us all, and then, after some investigation, it becomes obvious that it is clearly just one side of the story—often erroneous—and it is used as a basis for trying to inflame emotions about these very sensitive issues. I will come back to the house with information that is proper to be put in this place, and I offer the member a private briefing on this matter if she wishes.

Ms CHAPMAN: As a supplementary question, given the minister's answer and given that a member of his staff went on radio last week and claimed that this child was living with a female carer, and provided the details on radio and publicly, will he explain why his department also received advice that the girl was living with the 18 year old boy who was also arrested on the day for shoplifting?

The Hon. J.W. WEATHERILL: I am tiring of the approach. Is this the same Steve Ramsay that the member actually named in her media release as a missing 17 year old boy? We actually had some confusion. We had a media release on Sunday released by—

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: She does not want to hear this. It was released by the honourable member, who basically revealed that Steve Ramsay, a 17 year old boy, was missing. We searched high and low for Steve Ramsay. We looked amongst our 1 700 kids in care, and we discovered that she was actually describing the Deputy Executive Director of Families SA.

Members interjecting:

The Hon. J.W. WEATHERILL: That's right. I can report to the house that he is safe and sound, back with his family. There was a concern there for a while that we might have lost him, but he has been reunited with his family, which is a great relief to the whole staff of Families SA. This is a pattern that we are observing here. On radio the other day, the honourable member described the number of children in care as 3 000: it is, in fact, 1 700. We had her announcing with great fanfare the other day that there were 600 kids in motels. What do we find? We find 56—600 to 56. This is an area where great care is needed; these are sensitive issues. There is no attempt by the member opposite to take care with the information that she puts into the public sphere.

GRIEVANCE DEBATE

WATER CRISIS

Mr WILLIAMS (MacKillop): Today I will talk about the water crisis that is facing South Australia, and bring to the attention of the house the dire consequences of years of inaction by the current government. The Premier took up quite a bit of question time today to read out a letter he has sent to his Victorian counterpart, Premier Brumby, concerning the Victorian government's refusal to join with other states and the commonwealth to allow for contingency plans to be put in place to ensure that South Australia receives water next year if the drought continues. The Premier in his letter said, 'We cannot gamble on a better year next year.' That is what this government has been doing year in, year out.

Let us remember that Australia went into drought at least in 2002, and we felt the consequences of that here in South Australia in that year, some five years ago. My constituents down in the area of the lower lakes had difficulty getting water for their farms because in 2002 the lake level dropped so significantly that they could not get water to their pumps for irrigation and stock water. So, we got the warning back in 2002. Fortunately for South Australia, we had reasonable rains the next year, but we had no breaking of the drought in the catchment of the Murray-Darling system, and we have had no breaking of the drought in that catchment since.

So, we have known for at least five years that the amount of water in the storages in the Murray-Darling system has been decreasing, and the government has done nothing to protect the future of South Australia. That is why in November last year I and some of my colleagues went to Perth to talk to the people who have just built the desalination plant in Perth. On our return from that visit, we, as the Liberal Party, made the commitment that in government we would build a desalination plant here in South Australia because we could see what was happening.

The government cannot bury its head and say that it could not see what was happening, because its own Waterproofing Adelaide strategy document points this out very clearly. I would invite members, when they go back to their office, to go onto the website and start reading the Waterproofing Strategy 2005 document at about page 14. Looking at the graphs on pages 15 and 16, they will see that at around this time (about 2007-08) we will have a deficit between the demand for water in Adelaide and the supply available under drought conditions.

We know that we are living under drought conditions, and have been doing so for five years. So, the government has known what has been coming, just as the opposition has known. The difference between the government and the opposition is that the opposition knew that action needed to be taken and we made a commitment: in government we would build a desalination plant to deliver water security to South Australia.

Earlier this year John Howard made an offer to the states of $10 billion to help restore the balance in the River Murray, to buy back over-allocations and to put into place very important and essential infrastructure to save wastage of water—a whole raft of measures. What happened? The Labor Premiers, I would contend, conspired to ensure that in this federal election year that plan never got off the ground. We saw our Premier rush off to Sydney to talk to Morris Iemma.

We saw him fly to Brisbane, with much fanfare, to talk to Peter Beattie. Did he cross the border into Victoria to talk to the Premier then? Did he talk to Steve Bracks? We implored him to go and talk to Steve Bracks. Steve Bracks was the man that they had all assigned to hold the line, to hold off against John Howard's plan. It has come back to bite the Premier, because he allowed Steve Bracks and the Victorians to hold the line against John Howard's plan and retain powers within Victoria to have their way with the water that flows down the system.

Today, the Victorian government has said, 'We're not interested in what's happening in South Australia.' If it does not rain next year, even if the water is available to provide for Adelaide's essential needs and the essential needs for other communities, the quality of the water will be such that it would be a waste of time pumping it out of the river and into the Adelaide Hills storages.

Time expired.

FAMILY VIOLENCE

Ms THOMPSON (Reynell): Today I want to talk about children and teenagers using violence and abusive behaviour in their home. This is a very difficult topic for those who are experiencing it, and both the children and their parents are gravely affected by this type of behaviour. It is a very little known problem as yet, but last week I was able to attend a forum organised by the Child and Adolescent Family Violence Action Group and to hear the keynote speaker, Eddie Gallagher, from Victoria, speaking about this emerging problem. First, I want to acknowledge the work and efforts of the organisations that came together to mount this forum, and I also thank the Minister for Families and Communities, who provided the funds to bring Eddie Gallagher from Melbourne. I also want to particularly acknowledge and thank the parents who participated in the forum and who spoke to practitioners and researchers about their traumatic experiences.

Abuse of parents and siblings by children and teenagers has attracted little publicity compared with spousal abuse or abuse of the aged. Abuse and violence by children towards parents is a hard thing to talk about. It is clearly a form of domestic violence, but we have as yet no clear language in which to discuss the problem. New research in Australia, both by Eddie Gallagher in Victoria and in South Australia by Mary McKenna, shows that this type of family violence is a growing problem and something that concerns as all. It is a problem that has significant implications for the health and wellbeing of all family members; it is problem that has a substantial cost to the community; and it is a problem that we need to deal with. The research undertaken by Mary McKenna indicates that children and teenagers are exhibiting a range of violent and abusive behaviours in the home. These behaviours go beyond the normal adolescent behaviours that are described as testing the boundaries, challenging or antisocial. Parents experiencing the violence are often seen as lacking parenting skills, yet many of the families have other children with no behavioural problems.

In both the SA research and in Gallagher's research in Victoria, two-thirds of the families were two-parent families, a third of them were tertiary educated, and about a third of the abusing children were girls. Boys and girls generally practised similar forms of abuse of parents and siblings, but girls were more likely to run away and boys more likely to damage household property. Verbal abuse is the most commonly reported form of abuse; it is particularly directed at mothers, with nine out of 10 mothers in the studies subjected to verbal abuse from a child. Mothers are also the more likely parent to be emotionally abused by children. Physical abuse was reported by about a third of the parents in the SA study, and Eddie Gallagher gives examples of children as young as eight threatening their parents with a knife. Financial abuse, such as demanding money, getting into debt, stealing and property damage, is also common.

Unfortunately, children's violence and abuse in the home is frequently hidden, and parents may feel shame and be reluctant, at least initially, to seek help. The problem is often trivialised, especially in the media. Children are said to be going through an antisocial phase or they are testing out their parents. Blaming the problem on inadequate parenting skills is an easy and simplistic explanation. We need to move on from stereotypes. Stereotypes and apportioning blame are easy; understanding takes more effort.

Assistance is eventually sought by most families but, sadly, the help available is generally felt to be inadequate. Professionals have difficulty in seeing children as sometimes both victims and perpetrators of domestic violence. It is a worry that government and community organisations and medical professionals are seen by parents as being less helpful than family and friends. However, I refer members to the Parent Easy Guide No. 17 about abuse to parents which contains some useful information.

Gallagher sees many of the causes of this abusive behaviour as relating to community norms. Children do not have the freedom to run and explore. They are not able to go off by themselves to calm down and think things over. The nuclear family has become a pressure cooker in which the escape valves are now becoming extraordinarily worrying.

Time expired.

TRAMLINE EXTENSION

Dr McFETRIDGE (Morphett): In this morning's *Advertiser* there was an article about the new tram track and the switches having to be operated manually. What really bothered me about this article was the comment of the Minister for Transport that the opposition is continually talking down the tram project. I put on the record that, as a tram fan, this is a project dear to my heart, but what I am really concerned about is the way this project has been mismanaged, and the fact that the switches on the new track have to be operated manually is another small indication of the mismanagement of this whole project. For the record, and Mr Rod Hook's information, heavy rail has points and trams and light rail have switches, and there is a difference, so the tram enthusiasts tell me.

The need to have a manual switch out the front of Parliament House is an indication that things were not planned properly and not funded. The issue with the whole tram upgrade, including the trams, is that it has been done on the cheap. At the MTA lunch today, the president of the MTA, Mr Frank Agostino, said he would like to see trams all over Adelaide. That is something I would love to see again, because it is an example of how public transport could be managed well in a city the size of Adelaide. Adelaide has the perfect geography—it is the flattest capital city in Australia, and is perfect. But we have an example of how not to do it with this new tram upgrade.

The track starts at Glenelg, and the switches were not upgraded. The new rail was not ordered, so it was way behind

schedule. I use the tram quite frequently, and it is a rough ride; and when you come onto the concrete section on King William Street it is a noisy ride, even in the new trams. It will be a noisy ride out the front here, because the government cut corners and cut costs and did not use booted insulated rail. It really was not going to spend any more than it had to, because the Premier came out and made an announcement about this project—a project that could be a terrific project but unfortunately has been mismanaged.

We go back to Glenelg, and not only the switches at Glengowrie. At the tram crossing at Morphett Road, the government has spent $400 000 putting in a series of traffic lights across the tram crossing, and then at Anzac Highway, which is not even 200 metres (it is probably 100 metres) from it. This is supposedly to stop traffic queuing over the crossing at Morphett Road. Well, it just is not working. You stop at the tram crossing when there are no trams coming and you can see green lights at Anzac Highway, and the traffic builds up. It is not uncommon to have 20 and 30 minute delays with traffic queuing along Morphett Road almost to Bray Street. This was supposed to be fixed but has not been fixed. Also, when I do not catch the tram, it is really annoying to have to sit and wait when you come to South Road.

Once again, it is not what the minister is doing—I applaud what the minister is doing with some of these infrastructure projects—but it is how he is doing it. The fact is now we have to build a $28 million track over South Road. It is about 170 metres south of where the underpass will end. We now are building a $28 million bridge there for the tram to get over South Road. It is another example of mismanagement. We come up to King William Street and there are the new scramble crossings to allow the trams to come through. They did not want one of those on Jetty Road because it was going to delay the tram, but we have two scramble crossings now in King William Street. They add an extra sequence to the traffic flow. Pedestrians are ignoring the red 'Don't walk' signs, because they are so frustrated, and they are just going when traffic is flowing—which they should be able to do, anyway, as well as having the scramble crossing, if you want to have that. The new platforms are in place, but some of them are not even disability access compliable, which is another disgrace.

The overhead wires have been strung in the new section in such a way that the supports are 36 metres apart in the southern part of King William Street and about 27 metres apart here. We have a forest of giant hot dog heating irons there. The poles look awful. If a little more money had been allocated and a bit of high tensile overhead cable had been used, we would have had a third of those poles there. The minister tried to say that it looked like a European boulevard, but it looks like a forest of large pencils—as I said, hot dog warmers—all down North Terrace. The whole tram upgrade has been mishandled and mismanaged, and I just weep for what could have been with the expansion of the tram network in South Australia. This is an example of what we have—and it finishes short of the university and the proposed new hospital. It is a short costed and under-developed project.

Time expired.

REPUBLIC, ROLE OF GOVERNOR

Mr O'BRIEN (Napier): It has been brought to my attention that some candidates in the next federal election have to disavow any potential allegiance to the United Kingdom. This involves candidates who have British parents or grandparents and who have never held a British passport paying to the British government a sum of $1 200 to remove any future possibility of seeking UK citizenship. Put simply, candidates are having to pay $1 200 to renounce any future claim to UK citizenship so that, on election to the Senate or the House of Representatives, they can swear allegiance to the head of state of the United Kingdom, the country to which they have renounced any claim of citizenship or allegiance. That is the absurdity—their having to renounce allegiance to The Queen of England so that they can be sworn in on a Bible and swear allegiance to The Queen of England. When Australia becomes a republic—

Mr Pisoni interjecting:

Mr O'BRIEN: —it is just an educative process—the only viable option for the states will be to adopt republicanism as well. The states will then have to decide what they do with their governors.

Constitutionally, the Governor currently has surprisingly broad powers. Under section 41 of the South Australian constitution, the Governor can dissolve parliament, particularly in the event of a deadlock. Under section 56, he or she can suggest amendments to any bill for the parliament's consideration. The Governor can also appoint and dismiss ministers, judges and other high-ranking public servants. In practice, these powers are exercised on the advice of government ministers but, on my understanding, constitutionally, the Governor could unilaterally dismiss a particular minister. There are many other references to the Governor in the constitution, but these are largely notification requirements.

It seems totally inconceivable that, as an avowed republican, Kevin Scarce would ever interfere with the decision making of the democratically elected government of the day by exercising the full extent of his constitutional powers. The point of the matter, however, is that these powers remain and that a future governor could use them, and that would represent a complete corruption of the democratic process. When Australia becomes a republic (and I think that will occur within my lifetime), the constitutional role of the South Australian Governor could be done away with completely. Supporters of the current system point out that the Governor has a part to play in the series of checks and balances that provide for a division of power. It is my view that our federated national constitution already provides a sufficient division of power, and that at the time the South Australian constitution was drawn up we were not a federation with another locus of power within the nation.

The very broad powers conferred to the Governor are inappropriate for an unelected official and they are superfluous in providing a division of power, which is now ensured by Federation. If it was felt that a final arbiter was required to determine when deadlock had been reached, the Governor's section 41 powers could be transferred to the Chief Justice. This power would then become a judicial power, which can appropriately be held by an unelected official. In simpler terms, the Chief Justice would only be required to make an objective legal assessment of whether deadlock had, in fact, been reached.

There is an actual historic precedent for the chief justice performing the full constitutional role of the Governor. Indeed, up until 1967, the South Australian chief justice was automatically appointed as the state's Lieutenant Governor. As per section 69(1) of the constitution, the Lieutenant Governor can stand in and act for the Governor. Sir Thomas Napier was simultaneously chief justice and lieutenant governor for 25 years between 1942 and 1967. Sir Napier

(after whom my electorate is named) acted as governor for nine years. He is, in fact, South Australia's longest serving governor, despite never officially holding the post. Constitutionally, the role—

Mr Pengilly interjecting:

Mr O'BRIEN: I would like to live across the road, if you can organise it! Constitutionally, the role of state governor should be abolished once Australia becomes a republic. In the meantime, there is an opportunity for South Australia to take a national lead on this issue and start scaling down the constitutional role of the governor.

Time expired.

ENDEAVOUR AUSTRALIA CHEUNG KONG SCHOLARSHIP PROGRAM

Mr PISONI (Unley): On 14 September, I was privileged to attend a reception at Government House for participants in the Endeavour Australia Cheung Kong scholarship program. Endeavour Australia Cheung Kong is a unique initiative jointly funded by the Cheung Kong group and the Australian federal government which provides exchange opportunities to undergraduate and postgraduates students from Australia and Asia. Launched in 2004, this year the program will have more than 200 students on exchange and research fellowships. As with all participants in the scheme, they will finish the year not only advantaged in terms of education but will also have a deeper understanding of our region and the richness of its cultures. The Cheung Kong group has shown an admirable commitment to its philosophy that 'learning has no boundaries'.

It is very much the intended outcome of this program that not only will the awardees go on to be leaders of the future but that they become ambassadors for this philosophy and the strengthening of our regional ties. There is no doubt that the efforts of the Cheung Kong group and the federal government in regard to these study opportunities are helping to achieve closer and more positive ties with Asia. The Cheung Kong group has also made a positive contribution to South Australia's long-term economic health by being the majority shareholders owning the lease for ETSA Utilities. It was predicted at the time by the then treasurer, Rob Lucas, that the ETSA lease deal (part of the plan to reduce the massive debts left by Labor after the State Bank collapse) would lead to an upgrading of the state's credit rating—the AAA credit rating for which our current Treasurer quite astoundingly takes the credit.

How unfortunate that at the time of the lease—and having assisted greatly as a minister in the Labor engineered fiasco that was the State Bank collapse—Mr Rann chose to refer to the very forward looking Cheung Kong group in such derogatory terms. In reference to the lease arrangement, and with the particular cultural insensitivity, he said, 'I guess people want to know when they flick the switch on their power whether the Red Guards are rejoicing'. Thankfully, the implicit racism revealed by Mr Rann by this comment was not also extended to Mitsubishi. Hopefully, Mitsubishi will not leave our state, but if it ever does eventually close its doors in South Australia, Mr Rann can say, 'Well good riddance to them. They used to produce zeros in the war, anyway!'

At the time, even Labor Senator Nick Bolkus thought Mike Rann's racist comments merely assisted the One Nation agenda. Mr Rann could certainly have benefited from the opportunity to broaden his international perspectives as the Cheung Kong scholarships generously provide to young high-achieving scholars. Of course, rather than the 'Red Guards' rejoicing, it is the hundreds of students who have been the recipients of these scholarships through $7.5 million in funding—that is, $3.75 million each from Cheung Kong and the federal government—and 33 per cent of the scholarships are South Australian based, even though South Australia has only 8 per cent of the nation's population. The company's engagement in South Australia has made this possible.

Obviously, the Premier is happy to benefit from the company's positive involvement in our state now and to proudly pose for photographs at the Cheung Kong scholarship receptions—and with no Red Army in sight! As gracious and broad-minded people, the representatives of the Cheung Kong group are no doubt prepared to overlook the Premier's past vilifications. If they were not, they might repay the Premier's previous insulting description of their company and disdain for the private sector by referring to his leadership team as 'a troika comprising of two wild-eyed bullies led by an oily little spin doctor'!

Mr Pengilly: Say that again.

Mr PISONI: A troika comprising two wild-eyed bullies led by an oily little spin doctor! However, as an organisation that has proven itself to be a good corporate citizen with an agenda for building cultural bridges and promoting educational opportunities, it would not say anything like that—however, others might! South Australia has a longstanding reputation for being internationally minded and progressively multicultural. We should be proud to have the Cheung Kong Group as part of our cultural community group in South Australia.

COULTHARD, Mr W.

Ms SIMMONS (Morialta): I rise today to talk about Walter Coulthard, an Adnyamathanha man who fought for Aboriginal rights throughout his life. I was very pleased to be present last week with the Minister for Aboriginal Affairs (Hon. Jay Weatherill) and several of my fellow Reconciliation SA board members at a ceremony to unveil a monument to honour Walter. Walter Coulthard was born near Mount Serle around 1902 into a very loving family. He had four sisters and three brothers who were all an important part of his life.

He grew up in and around this country, learning from his elders and absorbing cultural knowledge from day one. He had a great depth of cultural knowledge, and he was careful to pass on this information to younger generations in the correct way and at the correct time. He worked hard all his life and had a very varied career. He worked building fences for the local pastoralists, including part of the dog fence and boundary fence around Nepabunna, as well as on many stockyards on surrounding stations, including Umberatana and Mount Serle, to name just a few. He also worked at sinking and lining wells in the Nepabunna area, and he also worked in the local mines.

At 27 years of age, on 27 July 1929 he married Helen Johnson at Bolla Bollina. They had a special relationship and had 10 children together, several of whom shared this special event with us. In fact, nearly 150 of Walter's descendants gathered on 15 September 2007 to commemorate his tireless efforts in the Aboriginal Rights Movement. He was a very proud Adnyamathanha man, and his culture and language

were an essential part of who he was. He was instrumental in recording Yura Ngawarla, the language of the Adnyamathanha people, as well as their culture and cultural sites.

He was also very keen to pass on his cultural knowledge to the right people. The land we stood on was very important to him, and he made it his life's work to see it come back into the Adnyamathanha people. He was instrumental in the handing back of Mount Serle, and he was also very vocal in removing the missionaries from his land. These actions brought him both friends and enemies. He was ostracised by the missionary at Nepabunna for his actions. However, he made a very close friend of the then premier Don Dunstan, and this friendship lasted for the rest of his life.

He often stayed with the Premier at his home in Norwood when he was visiting Adelaide, and together they opened the new bridge at Port Augusta. Walter Coulthard was a very strong, powerful man who fought hard for his people and his land. He travelled all over the country, including to Canberra and Darwin, negotiating with government for the rightful return of Adnyamathanha country and human rights for his people. The ceremony was as powerful as it was simple. Clarry Coulthard, a grandson of Walter 'Apa' Coulthard, bent down and picked up two rocks from the red dirt and walked to the microphone.

He looked at the group gathered. The Australian, Aboriginal and Torres Strait Islander flags flapped behind him as he cleared his throat and began to sing. The song Clarry shared was 'grandfather's song'. As he shared its simple melody, he clapped the rocks together and it seemed as if the desert wind had picked up. We heard heartfelt stories from some of Walter's children—Reta, Ron, Lena, Roy and Ross. His daughter Gladys led the singing. Grandchildren Terry, Vince, Carl, Clarry, Cliff, Valma and Christine all contributed throughout the ceremony. On this special weekend the family realised a dream.

Walter Coulthard's significant legacy for the Adnyamathanha people had been acknowledged. The monument to Walter Coulthard was made possible through the work of Iga Warta. This is one of this state's unique cultural tourist attractions, which provides visitors with a taste for this arid land ecosystem and the opportunity to understand and experience an area so important to the Adnyamathanha people. I highly recommend a visit to this special place by members of parliament. Reconciliation South Australia was also pleased to provide assistance, and I felt very privileged and pleased to be part of this ceremony.

STANDING ORDERS SUSPENSION

The Hon. M.J. ATKINSON (Attorney-General): I move:

That standing orders be so far suspended as to enable the introduction forthwith and passage of a bill through all stages without delay.

The DEPUTY SPEAKER: An absolute majority not being present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

ELECTION OF SENATORS (CLOSE OF ROLLS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Election of Senators Act 1903. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

In June 2006 the Commonwealth Parliament passed the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006. This legislation amended the Commonwealth Electoral Act 1918 (that I will refer to now as the Commonwealth Act) to, among other things, reduce the period for close of the rolls.

There has been much criticism about the commonwealth's amendments. The State Government believes these criticisms are valid. It is with melancholy and ire that I present this bill to the house. The Commonwealth Government amended the provisions about the close of the electoral rolls in the Commonwealth Act without reference to, or the agreement of, the states. This unilateral action failed to recognise the important constitutional position of the Senate as the States' House.

The commonwealth does not have fixed election dates. Many people do not enrol or update their enrolment until after the election is announced. The state government believes that the commonwealth amendments will drastically and for improper purpose reduce the number of people eligible to vote, particularly young people and new citizens.

The commonwealth minister for state to whom the commonwealth act is committed admitted that, as of 31 March this year, 410 000 Australians aged 18 to 25 were not on the electoral roll. The federal government's enrolment campaign will be of limited effect. The citizens most likely to be affected, other than young Australians, will be those hundreds of thousands who have changed address and not updated their enrolment, as well as indigenous Australians, people in remote and rural communities, and people who have recently become Australian citizens.

Nevertheless, the government considers itself, by dint of the commonwealth amendments, forced to amend South Australian legislation to remove the inconsistency. The commonwealth, in amending its act has trampled on the rights and privileges of the states, and in this case will disenfranchise hundreds of thousands of Australians who may have had an opportunity to vote. Alas, the Australian federation is further eroded with this bill. I seek leave to have the remainder of the second reading speech inserted in *Hansard* without my reading it.

Leave granted.

The close of the roll for Senate elections is dealt with under both State and Federal legislation. The *Election of Senators Act 1903* (the ***South Australian Act***) makes provision for determining the times and places of elections for Senators for the State of South Australia.

Subsection 2(1) of the South Australian Act provides that, for the purpose of the election of Senators, the Governor may, by proclamation, fix the date:

- for the issue of the writ;
- for the close of the electoral rolls;
- for the nomination of candidates;
- for the polling;
- on or before which the writ must be returned.

Subsection 2(1c) of that Act provides that the date fixed for the close of the electoral rolls shall be seven days after the date of the writ.

The close of the rolls for Commonwealth elections is also dealt with under section 155 of the Commonwealth Act. Section 155 was, until amended in 2006, consistent with section 2(1c) of the South Australian Act.

In June 2006, the Commonwealth Parliament passed the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*. This legislation amended the Commonwealth Act to, among other things, reduce the period for close of the rolls.

Section 155 of the Commonwealth Act now provides that the date fixed for the close of the rolls is the third working day after the date of the writ. "Working day" is defined to mean any day except a Saturday, Sunday or State or Territory public holiday.

Section 155 must be read in conjunction with other new provisions, the combined effect of which is that the rolls will close for new enrolments on the day the writ for the Federal election is issued except for:

- 17 year olds who turn 18 before election day; and
- applicants for citizenship who will become citizens before election day.

People in these categories can apply for enrolment up until the close of rolls at 8 p.m. three working days after the day on which the writs are issued. The rolls will close for enrolment updates on the third working day after the issue of the writ.

The amendments have caused an inconsistency between the Commonwealth Act and the South Australian Act. As a general rule, where there is an inconsistency between a Commonwealth and a State law, the Commonwealth law prevails to the extent of the inconsistency by dint of section 109 of the *Constitution*. The position with regard to the date on which the roll for a Senate election closes is more complicated.

Section 9 of the *Constitution* expressly provides that, although the Commonwealth Parliament may make laws prescribing the method of choosing Senators so the method is uniform for all the States, the State Parliaments may, subject to any such Commonwealth law, make laws prescribing the method of choosing the Senators for that State and laws for determining the times and places of elections of Senators for the State.

I have obtained advice from the Crown Solicitor on whether section 109 applies to invalidate section 2(1c) of the Act. The Crown Solicitor advises that the position is not clear. There are two lines of authority. One is that section 9 of the Constitution of the Commonwealth of Australia confers authority on the State Parliaments to determine the date of polling day and the location of the polling booths only. The second is that section 9 goes further and authorises State Parliaments to legislate about the entire electoral process, including the date for the close of the roll.

Criticisms of the Commonwealth's legislation aside, the inconsistency between the State and Commonwealth Acts creates uncertainty as to the correct date for the close of the rolls for the next Senate election.

The Bill deletes section 2(1c) of the South Australian Act so that no time is specified for the closing of the rolls.

As the next Federal election can be called at any time, I put the Bill to Members. If the House is unwilling or unable to pass the Bill, the matter will inevitably end up before the High Court, where it is possible that the South Australian Act may prevail.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal. There being no commencement clause, the measure will become law on receiving assent from the Governor.

Part 2—Amendment of *Election of Senators Act 1903*

3—Amendment of section 2—Power to fix dates in relation to election

The proposed amendment will delete subsection (1c) from current section 2. That subsection currently fixes the date for the close of the electoral rolls at 7 days after the date of the writ. If this subsection is deleted as proposed, the date for the close of the writs would still be required to be included in the proclamation issued by the Governor in relation to the election and would be the date set by the Commonwealth for that purpose.

Mrs REDMOND (Heysen): I rise to respond on behalf of the opposition to this somewhat unexpected legislation. It is unexpected because I only finished speaking, at lunchtime, to the Legal Profession Bill, which interrupted my thoughts on that. The Attorney approached me and explained that it was necessary in view of the imminent declaration of a federal poll. We do not know when that might be, but it will obviously be some time in the next few weeks. Given the sittings of parliament, it is necessary for us to correct this slight anomaly as quickly as possible. Thankfully, the bill is somewhat shorter than the Legal Profession Bill, and we are happy to indicate our preparedness to accede to its speedy passage through the house. The Attorney has already fully explained what it is about. It simply removes the anomaly from our Election of Senators Act in this place so that it falls into line with the federal provisions as to the enrolment of people for voting at the next federal election. I indicate the opposition's support for the bill.

Mrs GERAGHTY secured the adjournment of the debate.

LEGAL PROFESSION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 860.)

Mrs REDMOND (Heysen): I believe that I had reached the point of discussing the issue of suitability for admission and moved on to the issue of Australian legal practitioners who, as I said, are those who have not only enrolled and become identified as Australian lawyers but also have practising certificates as per the requirements of whatever it may be from state to state. In this state the requirement under this bill is to obtain a practising certificate, including taking out the necessary professional indemnity insurance. That is how they become recognised as Australian legal practitioners. There were then some provisions about suitability to hold practising certificates and the restriction on the issue of practising certificates in certain cases, which I will just go through briefly.

It provides that, if for a period exceeding one month an Australian lawyer has not held an Australian practising certificate, the Supreme Court may, on application for a local practising certificate, require the Australian lawyer to furnish evidence satisfying the Supreme Court that the lawyer has not engaged in legal practice without holding a practising certificate. It seemed a little odd that that appeared before the bits that I think should have been made more obvious; that is, basically, if you are going to practise here, you must have a local practising certificate. I would have actually put those things in a better order, I think. In any event, if you make a late application, the court can consider it, it can impose a financial penalty, and then backdate the certificate that it issues in due course. Presumably, if someone somehow inadvertently forgot to re-register and get their practising certificate again, they could make a late application. They may pay a bit of a financial penalty, and they would then get a backdated certificate, which will now run for financial year, which is a change from the way our practising certificates have been run, which was on a calendar year basis, I think, up until now, with renewals going in in about October. The next measure provides for the financial year to be the year that is operational under this bill and, again, there is a provision for backdating if necessary, if there is any delay in its issue.

Interestingly, clause 30 is about local legal practitioners being officers of the Supreme Court. When I got to that

clause, I thought, 'That's funny, I thought we were already officers of the Supreme Court', because clause 21 provides that a local lawyer is an officer of the Supreme Court. When you read clause 30, in fact, it provides that a person who is not already an officer of the Supreme Court becomes an officer of the Supreme Court on being granted a local practising certificate.

So, there will be those people who come in and can get a local practising certificate in unusual circumstances. Where they are not already enrolled on the Supreme Court roll in this jurisdiction and where they then obtain a practising certificate here, this clause makes them officers of the Supreme Court. That seemed to me, again, a little odd not to put those two clauses together just for the sake of it being consistent. I notice that, whereas a local lawyer being an officer of the Supreme Court is a core non-uniform provision, the provision in clause 30 making a local legal practitioner—that is someone who has not only got an enrolment somewhere but got their practising certificate in this state—an officer of the Supreme Court is a core uniform provision.

Clause 31 goes on to provide that an Australian lawyer can apply to the Supreme Court for the grant of a local practising certificate if eligible to do so. Interestingly, somewhere over the way there is a provision saying that an application must not be made by an ineligible lawyer. I guess that, if you are not a good enough lawyer to figure out under the rules whether you are eligible, you take it at risk, because an Australian lawyer must not apply for the grant or renewal of a local practising certificate if the lawyer is not eligible to make the application. So, that is a relatively straightforward provision, but then the eligibility gets to be a little confusing in its reading, and partly that is simply because the terminology is not familiar to me yet, but it will no doubt become familiar.

Essentially, an Australian lawyer, that is someone who is enrolled on one of the Supreme Court rolls of any state or territory, is eligible to apply for the grant or renewal of a local practising certificate if they comply with any regulations and legal profession rules, and if—and then it goes on to list things. First:

> In the case of a lawyer who is not an Australian legal practitioner at the time of making the application. . .

So, I began to think: why is that? In fact, it seemed to me that it would have been more sensible to put subclause (4) of clause 31 up the top, which says:

> An Australian lawyer is not eligible to apply for the grant or renewal of a local practising certificate in respect of a financial year if the lawyer would also be the holder of another practising certificate for that year.

As I understand it, the intention of the legislation is simply this: if you are enrolled somewhere else and you have your practising certificate somewhere else, then you cannot obtain a practising certificate here. If you are not enrolled anywhere else, if you are only enrolled here and you want to practise here, obviously you have your practising certificate here. If you are enrolled somewhere else but intend to solely or principally practise here, then you are going to have to get your practising certificate here. But some people, of course, may quite commonly practise in more than one jurisdiction. Certainly, some of my friends have practised in various states on particular sorts of cases, whether they be all sorts of specialised areas of law that might take them interstate, or sometimes you might have someone, for instance, living in Mount Gambier who practises in Horsham as well as Mount Gambier, and so on. However, the idea is that you will only take out your insurance and have your practising certificate in one place.

It does get very complicated trying to decipher exactly what is meant in these things because it says, for instance, that you have to be an Australian lawyer, you have to comply with the regulations and the rules and, if you are an Australian lawyer who is not an Australian legal practitioner—so that means you have not already got a practising certificate somewhere else—and you reasonably expect to engage in legal practice solely or principally in this jurisdiction, then you are generally eligible; or, if that does not apply (that is, you are not reasonably expecting to practise solely or principally in this jurisdiction, or it is not practicable to determine whether you will or you will not, but your place of residence is this jurisdiction, or you do not have a place of residence in Australia), all of that starts to get, as I said, quite complicated, trying to figure out what the scenario is that we are trying to address there.

I can only assume that we are talking there about foreign lawyers, but then we are not talking in terms of foreign lawyers: we are just saying 'lawyer', not 'foreign lawyer', not identifying anybody. I would have thought it was a bit unusual to have someone having a practising certificate in this state who neither lives here nor is going to practise here, and knows that they are going to practise here, either principally or solely, and does not have a place of residence here. I mean, who is this person? Some hot shot lawyer coming in from the US, I guess, who is going to take over our legal profession—and that will be the end of it!

Then there is a provision with the wording 'in the case of a lawyer who is an Australian legal practitioner'. I thought: how can that be? As I have understood it up until now, if you are an Australian legal practitioner, under the definitions that must mean you already have a practising certificate elsewhere and, therefore, how could you be applying for a practising certificate here? The theory is that you will only have a practising certificate in one state or territory. What it goes on to say is that it is basically to allow for this sort of situation: if you are moving from one state to another, or if you are coming in to do something and you are going to predominantly work here on, say, a case that is going to run all next year, then you would get your practising certificate here.

I envisage that eventually there will be significant case law on this issue as to who is insuring whom and for what purposes, because there will, no doubt, be circumstances where someone comes into this state and does something which gives rise to some sort of claim against the professional indemnity insurance, and then there will, no doubt, be considerable legal argument as to whose responsibility it is to have insured that person and whose money it has to be paid out of. So, it will be interesting to see how that develops in due course. It then talks about the idea that you are not to have more than one practising certificate. Then we get in subclause (6) what I think should have appeared in subclause (1), and that is:

> An Australian legal practitioner who—
>
> (a) engages in legal practice solely or principally in this jurisdiction during a financial year; and
>
> (b) reasonably expects to engage in legal practice solely or principally in this jurisdiction in the following financial year,
>
> must apply for the. . . renewal of a local practising certificate—

or for the grant of a local practising certificate if they do not have one—

in respect of the following financial year.

I would have thought that that is the bulk of the people we will be dealing with. So, it would have made sense to me to put that right up the top and say, 'Okay, for most circumstances, this is what is going to apply,' and then deal with the other variations in the following subclauses, but that appears as subclause (6).

The next couple of clauses just go on with the timing, the issue and the circumstances in which a Supreme Court could refuse an application if it is not in accordance with the act or the admission rules, or if it is not accompanied by the prescribed fee, and so on. However, the court must eventually give someone a practising certificate, unless it is satisfied that that person is not eligible or that they are not, in effect, a fit or proper person. The Supreme Court is also given power to amend or cancel a local practising certificate if the holder of the certificate requests the court to do so (and people have requested the court to cancel their practising certificate) and the court may amend it if there is some clerical or technical correction to be made, or in any other way that does not adversely affect the holder's interests.

Of course, the Supreme Court has an overriding authority to put conditions on to practising certificates. Clause 35 goes on to talk about the statutory conditions, which appear on all local practising certificates, the first one being that, if someone is convicted of an offence, it would have to be disclosed under the admission rules in relation to their application for admission to the legal profession; or if a person is charged with a serious offence (and we have already dealt with the definition of 'serious offence', which is essentially an indictable offence)—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: Actually, it was this afternoon; it was after midday, I think. So, those things have to be declared to the Supreme Court. The legal profession rules may specify the form of the notice to be used. Specifically, though, the conditions on local practising certificates in clause 35 about the obligation to notify the Supreme Court is stated not to apply to an offence to which division 6 applies, which is in relation to billing. It is interesting that an offence under that is not one that someone has to notify to the Supreme Court, when we know that, in fact, billing is the major source of complaints about lawyers generally in this state.

There is also a statutory condition on a local practising certificate that the holder must engage in supervised legal practice only until the holder has completed either 18 months supervised legal practice if they have completed their practical legal training under the supervision of an Australian lawyer; or, if the holder has completed other practical legal training, they will have to complete two years of supervised legal practice. Again, this is one area in which I do not think there is a vast change to the current arrangements. However, I think it is appropriate for people to have some form of supervision. I am aware of a number of people who managed to talk their way through the Supreme Court process to get exemption from certain requirements. They really did not have a great deal of practical experience, other than in specific, very narrowly defined areas, yet they obtained a full practising certificate. Whilst I have no difficulty about them practising in whatever that specific area of practice happened to be, their obtaining a full practising certificate struck me as an odd way to manage the profession.

Clause 38 deals with the possibility of issuing or renewing a practising certificate, subject to conditions, which are imposed by the Legal Practitioners Education and Admission Council, which can require the holder of the certificate to undertake or obtain further education, training and experience and, in the meantime, it can limit the rights of practice of the holder of the certificate until that has been done. Interestingly, this new regime does not appear to impose any condition as to compulsory legal education. My understanding is that, at least in a couple of the other jurisdictions, there are now provisions for compulsory continuing legal education, whereby it is necessary, in order to remain in practice and to renew your practising certificate, to undertake certain courses.

The Law Society regularly conducts seminars which are generally well attended, well organised and at a very limited cost to attend, which keep practitioners up to date. I used to attend quite a lot of those courses, and they were extremely useful. As I have said, I am a little surprised that it will not be compulsory to attend because, of course, it is compulsory in other jurisdictions, and in other professions there are provisions that make continuing education compulsory, that is, when a person attends certain courses, they get three points or two points, and so on, and they have to get a certain number of points (such as 10 or 12 each year) in order to renew their practising certificate.

I prefer the model we have here, where it has not been compulsory because, the reality is that, if a person is going to practise in an area, they need to keep up with the current practice rules. One of the difficulties I had when I was in general practice was trying to keep up with an array of areas, and keeping up with changes in rules was one of the things that made life increasingly difficult as a sole practitioner. However, on the other hand, I am well aware of people in other states under compulsory schemes who would simply enrol for a conference that might have 10 points attached to it and, once enrolled and having turned up at Noosa, or wherever it might be, they did not bother to attend the lectures or learn anything. So, I am not convinced that making continuing education compulsory is, in fact, a better system. It was not being checked in any real way to ensure that people were learning those new things. Anyway, the Legal Practitioners Education and Admissions Council can, in fact, impose conditions. It can receive delegations about that, and I think that the clause is written in a way that gives a reasonable degree of flexibility in the way those things are dealt with. If there is some sort of limit on the practising certificate, it will be endorsed on the certificate that is issued so that people can be aware of it.

The next division deals with amendment, suspension or cancellation of local practising certificates, and certain grounds are laid out for amending, suspending or cancelling. Those include: no longer being a fit and proper person; no longer having the professional indemnity insurance that complies with the requirements of the act; or if there has been a condition imposed on someone's certificate and they engage in legal practice that they are not entitled to engage in. Again, we come back to the circular definitions that I have mentioned several times already today in relation to engaging in legal practice and what precisely that might mean.

The Supreme Court is then given power to suspend, cancel or in some way amend a practising certificate if those things occur. Once it makes that decision, it has to notify the person. It can grant a stay of the proceedings for that to occur. It could even repeal what it has decided to do if it was satisfied that it had gone wrong, as I understand the way that clause has been written. Clause 43(4) provides for the quashing of a conviction. If the practising certificate is amended, suspended or cancelled because the holder has been convicted of an

offence and the conviction is quashed, the amendment or suspension ceases to have effect as soon as the conviction is quashed, and a cancellation ceases to have effect when the conviction is quashed, and the certificate is restored as if it had been merely suspended. So, that would at least put things back in place. However, one wonders whether, in getting to that position, there has been a breach of the idea that people are innocent until proven guilty, but I am working on the assumption that you have been convicted before the certificate has even been suspended, let alone cancelled.

We then come to these interesting things called show cause events and, of course, as I said earlier today, that was something we were going to come to quite specifically. There are various show cause events. The first appears in clause 44 and applies to someone who is applying for the grant of a local practising certificate, and one of those show cause events has happened. Members will remember from the definitions, and I will go back to that, that a show cause event essentially relates to bankruptcy, appointment of an official receiver or some sort of tax offence, or a serious offence (which is an indictable offence, committed anywhere, effectively). So, if you have had any of those things happen and you are applying for a practising certificate, this clause will apply. If that has happened, as part of your application, you have to provide to the Supreme Court a written statement setting out the particulars of the event and explaining why, despite that event having occurred, you should still be considered a fit and proper person to hold a practising certificate. So, in effect, it puts an onus on the applicant for a practising certificate to satisfy the court.

I mentioned this morning the case of the young man who never did get to practise because he failed to disclose what would be classified under this clause as a show cause event. So, you can make the application, because you are an officer of the court or hoping to be one. You have to be completely honest and put your case to the court. You do not have to do it if you have already done it previously. So, for instance, as I read this section, if you have a show cause event and you want a practising certificate, you put in your application and your explanation as to what happened and why you should still be considered a fit and proper person and you get your practising certificate. But, if you do not practice for a couple of years and you then went back and asked again, you do not have to go through that process. That is as I read the provision.

Clause 45 is the same sort of provision except it is not in relation to an applicant for a local practising certificate but someone who already holds a practising certificate locally. So, the same provisions effectively apply. But, in that case, because it is already happening while you have your certificate, you are supposed to give notice within seven days and put in your other documentation within 28 days to show cause why you should be allowed to retain your practising certificate.

Of course, under the current system, as I understand it, someone could be charged with an indictable offence which is a serious offence and therefore falls within the show cause events. If they are charged with an offence such as that, they would still be able to practise, in all probability, until such time as that was dealt with. If they were convicted, that of itself does not disentitle them to practise and there would have to be a case made to the disciplinary tribunal to show that that person is not a fit and proper person. Where the onus is on the person bringing the claim to show the person is not a fit and proper person on the basis of the conviction, this reverses that onus and provides that, as soon as you are convicted of that sort of thing, that is a show cause event and you have to immediately notify the court. You can still apply, depending on the nature of the matter.

I imagine there could be some tax matters where you could be convicted in terms of the definition and your conviction could nevertheless be considered not such as should disqualify you from practice. It could be something relatively innocent. But, on the other hand, you could be convicted of something totally unrelated to your legal practice—such as murder, for instance—and the court would be able to say as soon as you are convicted, 'You have to show cause why you should not have your practising certificate taken away from you.'

Clause 47 deals with immediate suspension. So, after you have dealt with these other possibilities, you then come to this part about immediate suspension. That allows the court, if it considers it necessary in the public interest, to immediately suspend, even if it is on the grounds that we have already talked about in the earlier sections, or on the ground of any happening of a show cause event in relation to the holder of a certificate. Even if nothing else has yet happened, there is an overriding power for the Supreme Court to say, 'You are not allowed to practise any more, at least for the time being.' A notice has to be issued about that and must include the information and give at least some natural justice to the holder by allowing them to make representations to the court, and so on.

We now reach this more complex area of interstate legal practitioners. As I said, most practitioners just practise in the state where they are admitted and where they continue to hold a practising certificate, with the exception of some people who live close to state borders, who may regularly go interstate. Only a relatively small number of people go interstate but I think that, under this sort of regime, we will find that firms (and I understand that Slater and Gordon already have a franchise office in Adelaide) will increasingly nationalise and will potentially have specialists in particular areas who reside, for instance, in Sydney or Melbourne, who may flit into Adelaide and need to come here. However, clause 49 begins by stating that an interstate legal practitioner must not engage in legal practice in this jurisdiction, or represent that they are able to, unless the practitioner is covered by professional indemnity insurance that covers legal practice in this jurisdiction and has been approved under and complies with the requirements of the corresponding law of the practitioner's home jurisdiction and is for at least $1.5 million per claim, inclusive of defence costs, unless the practitioner engages in legal practice solely as or in the manner of a barrister.

Of course, barristers have always been in a different position. In this state, we always think of barristers and solicitors as being pretty similar and, as I have already mentioned, we are admitted as both. However, historically, they come from very different backgrounds. It has long been the law that a barrister cannot be sued in negligence, because if they could there would doubtless be an endless array of claims against barristers from everyone who ever lost their case, because they would then claim that it was because of the barrister's inadequacy as their advocate that they lost the case, not because of the failure of themselves as witnesses or the law not being on their side.

So, for long historical reasons that I will not go into any further, it has always been the case that barristers do not need to have the same level of insurance that other practitioners

might have—and I see the member for Enfield nodding, as a barrister would. I know that the member for Bragg also is a barrister, whereas those of us who were brave and out there as solicitors had to have a fair bit of insurance. In any event, if someone is not a barrister, they must have at least $1.5 million per claim insurance to be able to come here as an interstate legal practitioner. Interestingly, the clause states:

> This section does not apply in relation to an interstate legal practitioner of a class excluded by regulation from the provisions of this section.

I am not sure who is being thought about in that clause—whether it is, for instance, lawyers who work within the commercial sphere of the government, or it might even be lawyers who are engaged as in-house council for a big corporation, or what exactly they have in mind. In any event, that provision does not apply to people who are excluded by regulation.

There is then a clause that limits, to some extent, the entitlement of an interstate legal practitioner to practise in this jurisdiction. The clause states:

> This Part does not authorise an interstate legal practitioner to engage in legal practice in this jurisdiction to a greater extent than a local legal practitioner could be authorised under a local practising certificate.
>
> (2) Also, an interstate legal practitioner's right to engage in practice in this jurisdiction—
>
> (a) is subject to any conditions imposed by the Supreme Court. . . and
>
> (b) is, to the greatest practicable extent and with all necessary changes—
>
> (i) the same as the practitioner's right to engage in legal practice in the practitioner's home jurisdiction;

It goes on to state that it is also subject to any condition that might be imposed on that practitioner in their home jurisdiction. So, if they were subject to supervision in their home jurisdiction, they cannot come over here and practise without also being under the supervision of a local registered practising lawyer—or local Australian legal practitioner, I think, would be the term. If it gets a little confusing, I think that is probably why the clause goes on to provide that, in the event of an inconsistency, the Supreme Court forms an opinion about the interpretation of which conditions apply.

The Supreme Court can also issue a notice to an interstate legal practitioner imposing any condition on the practitioner's practice that it might impose under this act on a local practising certificate. The only limit on that is that they must not be more onerous than conditions applying to local legal practitioners. I assume that that might be to prevent us from breaching freedom of interstate trade and things in the federal constitution; that we cannot impose onerous conditions on interstate practitioners to stop them from coming in here and practising. They have to be no more onerous than what the equivalent person would have imposed on them in this state if they were practising with a local legal practice certificate.

There are then provisions providing some detail about special provisions for interstate legal practitioners engaging in unsupervised legal practice in this jurisdiction, and essentially they cannot do so, unless they are unsupervised in their home jurisdiction. Again there is another provision about their becoming officers of the Supreme Court. Anyone who has signed the roll locally is an officer of the Supreme Court, and anyone who is not already an officer of the Supreme Court because of that, but who then gets a local practising certificate, becomes an officer of the Supreme Court. Then, under clause 53, an interstate legal practitioner who engages in legal practice here has all the duties and obligations of an officer of the Supreme Court, and most fundamentally, of course, is that their first duty is to the court.

Division 9 has a mixture of things. Some of it repeats what is in the existing Legal Practitioners Act, some of it is non-core, some of it is core non-uniform and, in particular, clause 55 is not identified as coming within any of those things. Basically, the Supreme Court can transfer some of its powers to other bodies. It could transfer some of its powers or assign some of its functions to the Law Society, or to the Legal Practitioners Education and Admissions Council and so on, and it can put conditions or limits on the assignment of those powers. If the person or body to whom they assign the powers makes a decision under that assignment and if it is adverse to the person in relation to whom the decision was made, they have to give notice in the same way as a Supreme Court would have to do.

The Supreme Court can also authorise a personal representative to carry on legal practice. Now that is a pretty interesting provision. Clause 55(1) provides:

> The personal representative of a deceased Australian legal practitioner may, with the authority of the Supreme Court, carry on the practice of the deceased legal practitioner in this jurisdiction for a period not exceeding 12 months. . . from the date of death.

They can put conditions on that. However, in practice that would mean (although it does not say it all that clearly) that, if you have the problem of a practitioner dying in office (and it has happened before), then that practitioner's executor is authorised to conduct the practice for up to 12 months—not as a legal practitioner.

Obviously they are not authorised to engage in legal practice—back to our favourite definition—but, for instance, they could engage a lawyer, or continue the practice if there were some employed lawyers and so on working in the practice. It can be quite difficult if a practitioner, particularly a sole practitioner, suddenly dies in practice, and there is no authority for things to be continued, wound up, or cases to be assigned. What happens when a practitioner dies? That practitioner may have safe custody of an enormous number of wills and be part way through all sorts of cases. There needs to be a mechanism. Hence, the Supreme Court can authorise that the practice continue for up to 12 months, and if they were putting conditions on it and if the personal representative was not a qualified lawyer, then one would assume that the Supreme Court (although it does not say) would require that the personal representative engage someone who had a practising certificate in order to carry on the practice for that period of up to 12 months after the death of the practitioner.

Clause 56 deals with protocols and provides:

> The society [that is the Law Society] may enter into arrangements (referred to in this part as protocols) with regulatory authorities of other jurisdictions about determining—
>
> (a) the jurisdiction in which an Australian lawyer engages in legal practice. . .
>
> (b) the circumstances in which an arrangement under which an Australian legal practitioner practises in a jurisdiction—
>
> (i) can be regarded as being of a temporary nature; or
>
> (ii) ceases to be of a temporary nature.

I take that as meaning that the Law Society can continue negotiations with law societies around the country in order to come to some sort of agreement. Rather than calling it a memorandum of understanding (as the SCAG group did), calling them protocols to say that we will determine, for instance, that if someone is practising in the court for at least six months, then they will be taken to be practising in that

jurisdiction, rather than being simply an interstate practitioner and not practising in this jurisdiction.

Clause 57, 'Consideration and investigation of applicants or holders', deals with the Supreme Court trying to decide whether or not to grant, renew, or amend a local practising certificate, or whether to impose conditions on it. It can require the applicant to give it specified documents or information, and it can require the applicant to cooperate with any inquiries by the court that it considers appropriate; and failure to comply with a requirement by the Supreme Court is a ground for making an adverse finding in respect of the person's application for their practising certificate. There has to be a register of the local legal practitioners and, as well as stating who the practitioners are, it has to state any conditions imposed on a local practising certificate and any other particulars that the regulations might prescribe.

Basically, it has to be available for inspection without charge. If you wanted to check whether your lawyer was enrolled or whether they have any restrictions on their full practising certificate, then you can go to the Supreme Court (or wherever they nominate) during business hours or an internet site maintained by the court to see (without charge) what the name of the practitioner is and what conditions are imposed.

There is then a clause that deals specifically with government lawyers of other jurisdictions, and that is why, when I was talking earlier, I was not sure who that particular clause was aimed at. I thought, maybe, it might be government lawyers, but then there was this specific provision about government lawyers of other jurisdictions. The clause provides:

> A government lawyer of another jurisdiction is not subject to—
> (a) any prohibition under this act about—
> (i) engaging in legal practice [here]; or
> . . .
> (b) conditions imposed on a local practising certificate,
> in respect of the performance of his. . . official duties or functions as a government lawyer of the other jurisdiction to the extent that he or she is exempt from matters of the same kind. . . of the other jurisdiction.

The wording is all very circular. Essentially, as I understand it, it means that, to the extent that a government lawyer is exempted from requirements regarding practising certificates, and so on, in another jurisdiction, if they come here in the course of their work as a government lawyer the same exemption will follow them here. Interestingly, contributions and levies are not payable to the guarantee fund by or in respect of a government lawyer of another jurisdiction in his or her capacity as a government lawyer. That is quite an interesting provision because, as I have already indicated, we are holding our position in respect of the ability of the Law Society to impose levies on practitioners.

However, in the wording of this act, I cannot see how it would not be possible to come up with a scenario whereby a government lawyer ended up messing up in such a way that there could be a claim against the guarantee fund. I think that is within the realms of possibility, although right at the moment I cannot come up with a scenario quickly. If that is the case, why on earth should that person be the one who is exempted from a contribution to the guarantee fund by way of a levy when all the other lawyers in the state would potentially have to pay?

In any event, that clause simply deals with government lawyers and their ability to come into this state. There is then a series of provisions in relation to interjurisdictional provisions regarding admission and practising certificates. Effectively, what it means is that if we have a situation where someone, for instance, had their name removed from a foreign roll of practitioners or had their certificate to practise elsewhere cancelled or suspended this part will come into play. If you are applying for admission here or elsewhere, the Supreme Court here can give a corresponding authority for another jurisdiction written notice of your application.

Also, if the case should require, it can give written notice of the court's refusal to admit you to profession in this state. There is then a specific series of provisions that relate to the situation whereby if you have your name removed from the Supreme Court roll (except, I think, if you do it under your own volition, that is, if you apply to have your own name removed), the Registrar of the Supreme Court must, as soon as practicable, give written notice of the removal to the corresponding authority of every other jurisdiction and the Registrar or other proper officer of the High Court.

That must indicate the person's name, contact details, the date the person's name was removed from the roll and the reason for removing the person's name from the roll, and it can contain other relevant information. As soon as someone is off, the Registrar of the Supreme Court here must flash that information around the nation. Similarly, if an Australian lawyer is refused a practising certificate or suspends or cancels their practising certificate, again, it gives notice around the nation of what has happened. There is also a requirement for a lawyer to give notice.

So, if someone was admitted elsewhere, was practising here and had their name removed in the other place in which they were originally admitted they have an obligation, as soon as practicable, to give written notice of that removal elsewhere to the Supreme Court here, and failure to do so invites a maximum penalty of $50 000; so, quite a serious consequence for failure to do that. They must similarly give notice of any orders or regulatory action made interstate, and there are provisions about exactly what they must notify. Local authorities can take action in response to those notifications. In particular, if the Registrar of the Supreme Court here is satisfied that a practitioner's name has been removed from an interstate roll they must remove the lawyer's name from the roll here.

They may but need not give the lawyer notice of the date on which they propose to remove the lawyer's name from the local roll. They must give notice of the fact they have done it. They also have power for what is called peremptory cancellation of a local practising certificate following removal of the name from the interstate roll. So, as well as removing them from the roll here, once you are removed from the roll you are no longer an Australian lawyer therefore you are no longer entitled to become an Australian legal practitioner or to continue to hold a practising certificate locally, so that would be cancelled.

There is then a provision in clause 70 for what is called a 'show cause procedure' (so, again, we go back that show cause definition at the beginning which I spent sometime going through) for removal of a lawyer's name from the local roll following foreign regulatory action. This section applies if the society is satisfied that foreign regulatory action has been taken in relation to a local lawyer, that is, someone who is on the roll of the Supreme Court here for whom foreign (as in overseas) regulatory action has been taken. Again, it goes through the process in that the Supreme Court can serve a notice. If the lawyer does not, it is because it is a show cause event. It has basically reversed the onus so that the lawyer then has to show the court why they believe they are still a

fit and proper person and why they should be allowed to continue to practise. If a lawyer does not satisfy the society that their name should not be removed, the society then applies to the Supreme Court for an order that the name be removed from the roll, and the Supreme Court could then make an order. Similarly, the same sort of consequence flows: if there is a show cause procedure for the removal from the roll of a foreign lawyer, we then have the show cause procedure that follows in relation to the practising certificate. Clearly, once you are not enrolled you cannot hold the practising certificate. Those clauses deal with just those issues, and authorise the jurisdictions to talk to each other. That is the nature of the national legal practice.

As to that, I do not have a particular problem. I have always been concerned that potentially it was possible for someone to be struck off in another state and for us not to know about it. They could come in here and start to practise, theoretically, without getting into too much strife. But now it is clearly of significant consequence, and they will be caught, because modern communications and this legislation will mean that there is enough discussion and information transferred between various jurisdictions, so that it is unlikely that anyone who is struck off in one place will be able to simply set up somewhere else.

We then get to the most important part of this legislation; that is, the area dealing with incorporated legal practices and multidisciplinary partnerships. As I understand it, incorporated legal practices and multidisciplinary partnerships will in many respects be similar. The only difference is that one continues to operate as a partnership, but the partners do not all have to be lawyers. Up until now, of course, you could only be in partnership with other lawyers. At its mildest, I guess it might simply mean that the mum and dad practice where one partner is the practitioner and the spouse is the secretary—and I know of a number of firms where this has been the case—could, in fact, profit-share rather than simply have a practitioner who earns a certain amount of money and a secretary who earns a certain amount of money. You can have a partnership like that.

Multidisciplinary partnerships, as I mentioned earlier, could encompass all sorts of things. I notice that the Attorney was quite enamoured of the idea that we might have a gymnasium and health spa combined with a legal practice, so that you could go to the gym and have your massage, do your exercises, and at the same time receive your counsel. There is nothing under this new regime which will prevent that from happening. The multidisciplinary practice is really about partnerships, and the partners may be from any range of different places but they remain in a partnership. Incorporated legal practice, as the name suggests, is a corporation, essentially. Therefore, there are a whole lot of definitions about corporation, director and regulator.

The important clauses include clause 75—the nature of incorporated legal practice. It provides that an incorporated legal practice is a corporation—that is a corporation in the normal sense that we know and which covers the Corporations Act, and so on—that engages in legal practice in this jurisdiction, whether or not it also provides services that are not legal services. There is no reason why an incorporated legal practice will not also have that breadth of potential activity. It is simply a matter of whether you go under the incorporated structure of a corporation or whether you choose to remain as a partnership; but you will have directors. However, a corporation is not an incorporated legal practice if it does not receive any form of, or have any expectation of, a fee, gain or reward for the legal services it provides; or the only legal services that the corporation provides are any or all of the following services: in-house legal services, namely, legal services provided to the corporation concerning a transaction to which the corporation is involved or is a party to; or services that are not legally required to be provided by an Australian legal practitioner, which are provided by an officer or employee who is not an Australian legal practitioner.

In-house legal services is a fairly common thing. A lot of the large corporations have for many years engaged in-house legal services specifically to provide legal advice on the things that they are involved in. Whether that be in share trading, overseas investments or mining, they commonly have in-house legal specialists. That does not make them an incorporated legal practice. The other classification, that is, services that are not legally required to be provided by an Australian legal practitioner, I imagine is aimed mostly at trustee companies. Trustee companies commonly, for example, provide services—which many people will think to be legal services—of taking instructions and drawing wills, and so on. Maybe the Attorney can disabuse me of the notion but it seemed to me that that was most likely the sort of area that the particular exemption was talking about, saying that these things are not incorporated legal practices. But other than that, if you are engaging in legal practice, even if you engage in other things as well, and if you are incorporated then you become an incorporated legal practice.

Clause 76 talks about non-legal services and businesses of incorporated legal practices. So, an incorporated legal practice can provide any service and conduct any business that the corporation can lawfully provide or conduct, except as provided by this section, and really all that it is not allowed to do is to conduct a managed investment scheme. The regulations can go on to add some other things, if they want, later on, but at the moment that is the only thing. If a business is lawful then you can do it by way of an incorporated legal practice so that you have got your law practice and it does not matter whether it is a cafe, a gymnasium, a financial advice business, whatever it might be, you can do that under the heading of your incorporated legal practice, and that is perfectly lawful because you are providing non-legal services of an incorporated legal practice.

The interesting clause is clause 78, which provides:

> Before a corporation starts to engage in legal practice in this jurisdiction, the corporation must give the Supreme Court written notice, in the approved form, of its intention to do so.

So, when Woolworths comes in and sets up Woolworths Law, they first of all have to notify the Supreme Court of their intention to set up Woolworths Law, and if they fail to do that then they are up for a penalty of up to a maximum of $50 000, and if they fail to do it before they actually start giving the advice then they will have illegally started to engage in legal practice. Sections 78 and 79 deal with that issue of giving notice about your intention to enter into legal practice. Then if you cease to engage in legal practice, similarly, you have to notify the Supreme Court, in the approved form, of your intention to cease to engage in legal practice.

The only real control on all of this appears in clause 81, and that is:

> An incorporated legal practice is required to have at least one legal practitioner director.

So, you could have one legal practitioner heading a corporation involving hundreds of people doing all sorts of different things. Woolworths Law versus Coles Laws will, no doubt, be appearing in a shop near you soon. That is what we are going to have for the provision of legal services in this state and, indeed, around the country, because everyone has agreed that that is the way that we want to practice law now.

> Each legal practitioner director of an incorporated legal practice—

and remember there might only be one legal practitioner director, but each one who is a legal practitioner director of an incorporated legal practice—

> is, for the purposes of this act only, responsible for the management of the legal services provided in this jurisdiction by the incorporated legal practice.

They might be responsible for it but that is not going to stop them from engaging all sorts of people who are not lawyers to do all sorts of work that I think, because of our lack of definition about engaging in legal practice, will really be quite contentious. They are responsible for the management; they have to ensure that the appropriate management systems are implemented and maintained to enable the provision of legal services by the incorporated legal practice in accordance with what would be binding on them as professional and ethical obligations; and they have to ensure that:

> . . . obligations of Australian legal practitioners who are officers or employees of the practice are not affected by other officers or employees of the practice.

I think that that is going to lead to some very interesting situations as our corporations practising law become larger and larger and we end up with some poor little person, who is an employed associate of the incorporated legal practice, being heavied by, maybe, the financial manager of the corporation, who is not a legal practitioner, trying to force them to behave in a particular way or to take a particular action, because there is, as the Attorney himself pointed out in his second reading speech, a bit of a difficulty about how you balance the interests of a business and the obligations of the officers and employees of a corporation to actually make money for the corporation. How do you balance that against the ethical and professional obligations of lawyers in the practice of their profession?

Clause 82, obviously, starts to talk about that; that is, 'Obligations of legal practitioner director relating to misconduct'. It specifies, 'Each of the following is capable of constituting unsatisfactory professional conduct', which, as I indicated earlier, is the lower level of unsatisfactory conduct, 'or professional misconduct', which generally speaking could be categorised as the sort of conduct which could lead to you being unable to continue practising as a lawyer and being struck off. So, each of these is capable of constituting that sort of conduct. Interestingly, the first thing that is capable of constituting unsatisfactory professional conduct or professional misconduct by a legal practitioner or director is 'unsatisfactory professional conduct or professional misconduct'.

That makes a lot of sense: unsatisfactory professional conduct and professional misconduct are capable of being construed as unsatisfactory professional conduct or professional misconduct. But also then, 'conduct of any other director', who is not an Australian legal practitioner but is part of the incorporated legal practice:

> . . . that adversely affects the provision of legal services by the practice;

> (c) the unsuitability of any other director of the incorporated legal practice to be a director of a corporation that provides legal services.

As I read it, that then means that, if you are the one lawyer in some multidisciplinary incorporated legal practice who provides all sorts of other services, you are then responsible to ensure that, first, no-one else who is not a fit and proper person to be involved in an incorporated legal practice is made a director of the company (and I do not know to what extent you would have control over that), or that any other person who is a director, even if they are a fit and proper person, does not behave in a way that would adversely affect the provision of legal services by the practice. However, a legal practitioner director is not guilty of unsatisfactory professional conduct or professional misconduct if the director establishes that he or she took all reasonable steps to ensure that Australian legal practitioners employed in the practice did not engage in conduct or misconduct, as referred to earlier, or that directors did not engage in the sort of activities that might adversely affect the provision of legal services, or that unsuitable people were not appointed to the office of a director of the company.

So, potentially, it would be a heavy penalty on a sole legal practitioner within an incorporated practice. That might explain why, to date, only three incorporated legal practices (if I recall the briefing session correctly) have actually been formed in Victoria, where this legislation has been in place for some longer time.

The Hon. R.G. Kerin interjecting:

Mrs REDMOND: As the member for Frome says, 'Coles and Woolies'. That is exactly where our legal profession is heading.

The Hon. R.G. Kerin: That's so they can all join the SDA.

Mrs REDMOND: The member for Frome points out that that it is so they can all join the Shop Distributive and Allied Trades Union. That is why we will have the legal practices of Woolies and Coles. Penalties are then imposed if you dare to be an incorporated legal practice if you do not have a legal practitioner director for a period exceeding seven days. Obviously, if you took the risk of having a big incorporated legal practice and you had only one legal practitioner director, potentially, that could be the only lawyer engaged in the whole large firm. If that person died, you would have to be pretty prompt about replacing them. Again, the standard provision is that a $50 000 fine is attached if you do not do the right thing.

There is a clause that deals with the obligations and privileges of practitioners who are officers or employees. Of course, one would contemplate that, if you did have a Woolworth's law or a Coles' law, you are going to have a fairly large corporate structure, and it is unlikely that, even if you had only one director, you would have no other lawyers employed or no other officers who are not all lawyers. The obligation is specifically that you are not excused from compliance with professional obligations as an Australian legal practitioner, or any obligations as an Australian legal practitioner under any law, nor do you lose the professional privileges of an Australian legal practitioner. That provision tries to ensure that there is some protection for the public, that is, that you cannot hide under the blanket of that incorporation, that ethical and statutory obligations still attach to you by virtue of your having signed the roll of the Supreme Court.

However, as I have already indicated, I have a strong suspicion that, if you are some little junior employed in a vast corporation, regardless of your ethical and legal obligations, you will be under considerable pressure at times from those who may be higher up who are non-legal directors who may wish you to do things and engage in conduct that is not appropriate. Those sorts of things can be quite problematic. Indeed, I used to lecture at the 'college of knowledge', as it was colloquially called, to the baby lawyers—the new lawyer graduates—about their ethical obligations, specifically with respect to costs. Some of them used almost to turn ashen when I explained how they would have an ethical dilemma very shortly if they worked with any of the large firms in Adelaide or elsewhere because of the system of time costing. I do not intend to go through the detail of how that system works, suffice to say that the provision of time costing, which has involved young lawyers in having to try to come up with seven chargeable hours a day of legal work, is a preposterous imposition on young graduate lawyers who should be trained in the professional obligations of the law and, hopefully, who should be enjoying their start in the practice of the law. However, instead of that, they are put under the hammer to produce seven chargeable hours a day, and they very quickly burn out because of the enormous amount of time it actually takes to honestly produce seven chargeable hours of work each day.

As I have said, clause 84 provides that these obligations and privileges of practitioners (even if they are officers or employees of an incorporated legal practice) do still attach to them as Australian legal practitioners. In particular, subclause (3) provides:

> The law relating to client legal privilege (or other legal professional privilege) is not excluded or otherwise affected because an Australian legal practitioner is acting in the capacity of an officer or employee of an incorporated legal practice.

It then goes on to provide that the directors of an incorporated legal practice do not breach their duties as directors merely because someone employed by the practice provides legal services on a pro bono basis.

There is a provision about professional indemnity insurance, and it states:

> The provisions of this act relating to insurance apply, with any necessary changes, to incorporated legal practices in relation to the provision of legal services in the same way that the provisions apply to Australian legal practitioners.

However, it does not affect an obligation of an Australian legal practitioner who is an employee or an officer to still comply with the provisions of the act relating to insurance. I read that as indicating that, if you are an Australian lawyer engaged in legal practice (and I will use the terminology in the bill even though it is not really very well defined) via an incorporated legal practice, you still will need to have the same sort of practising certificate. Nevertheless, it worries me that situations could arise where lots of people are working under a legal practitioner director, or even under a legal practitioner, officer or employee of a large or mega corporation (even a multinational corporation), and potentially only one person has to have a practising certificate and therefore pay the relevant insurance. One can only hope that sufficient provisions will be made under the application of the professional rules in terms of the professional indemnity insurance so that, if that circumstance arose—that is, where someone is the sole legal practitioner in a large multidisciplinary corporation—and if, in fact, legal services are being provided via mechanisms in that corporation well beyond the scope of what an individual lawyer could actually provide, appropriate adjustments will be made to the insurance that they have to take out.

Conflict of interest is another key provision, of course, because it does seem to me, and it even seemed to the Attorney when he first started looking at this, that there is a potential for conflict between your obligations as an officer of a corporation, your obligations as a legal practitioner in terms of the best interests of the client and your obligations as an officer of the court. The clause provides that, for the purposes of all of this, if you are a director of an incorporated legal practice or an officer or an employee of an incorporated legal practice, the rules still apply to you in terms of conflict of interest. Special rules can be made for or with respect to additional duties and obligations in connection with conflicts of interest arising out of an incorporated legal practice. I will not go into that further, but it seems to me that there is a huge potential for conflict of interest issues. The idea of conflict of interest is a complex area of the law at times, and there have been all sorts of discussions over the years about Chinese walls, and there have been all sorts of findings of conflict of interest existing where most people in ordinary language would not perceive that there is a conflict. So, once you then put that into a corporate structure it seems to me there is a huge potential for conflict of interest.

There are specific disclosure obligations so that, if a person engages in an incorporated legal practice to provide services that the person might reasonably assume to be legal services, then this clause about disclosure obligations applies, but it does not apply where the practice provides only legal services in this jurisdiction. I do not understand exactly what clause 87(1) is getting at, but the bill goes on to say further in clause 87 that each legal practitioner director of the incorporated legal practice (and there might only be one) and any employee who provides services on behalf of the practice to someone who has engaged the firm assuming or reasonably assuming to be getting legal services, has to ensure that they comply with the requirements of the section about giving the person disclosure, and there is a penalty of up to $50 000.

The disclosure has to set out the services to be provided, stating whether or not all the legal services will be provided by an Australian legal practitioner. If some of the legal services to be provided will not be provided by an Australian legal practitioner, the disclosure must identify which ones will and which ones will not, in effect. In fact, a little example is given in the note. It states:

> For example, the person might be a licensed conveyancer. However, this paragraph would not apply in a case where a law applying in the jurisdiction prohibits a particular legal service from being provided by a person who is not an Australian legal practitioner.

So, in some jurisdictions for a long time it has been prohibited for conveyancing to be done other than by a solicitor. I know New South Wales changed many years ago, and I think most jurisdictions have moved to the point where they do allow conveyancers, but they would not be considered a legal service in some jurisdictions and they would be in others if they were simply doing conveyancing. But, you have to give this disclosure setting out whether or not all the legal services that are being provided will be provided by an Australian legal practitioner (so, that is someone who is enrolled in Australia in one of the states or territories and has a practising certificate), and the disclosure to a person may even have to be made more than once. If you fail to make that disclosure,

there can be consequences in terms of what duties you owe to the person.

Again, legal professional rules apply to legal practitioners within an incorporated legal practice. There is a clause relating to advertising which basically provides that, again, these provisions apply to legal practitioners within an incorporated legal practice just as they apply to those who are practising in the normal, traditional way, subject to any requirements that they have to put in place to make them apply to a corporation. Interestingly, any advertisement of the sort being restricted by clause 90, for the purpose of any disciplinary proceedings, is taken to be authorised by each legal practitioner director of the incorporated practice. The onus is very much on any legal practitioner director who becomes the only legal practitioner director in relation to a large corporation.

Clause 91 deals with the 'extension of vicarious liability relating to failure to account, pay or deliver and dishonesty to incorporated legal practices'. It applies to certain proceedings, and the clause provides:

> (a) civil proceedings relating to a failure to account for, pay or deliver money or property received by, or entrusted to, the practice (or to any officer or employee of the practice) in the course of the provision of legal services. . .
>
> (b) civil proceedings for any other debt owed, or damages payable, to a client as a result of a dishonest act or omission by an Australian legal practitioner who is an employee of the practice in connection with the provision of legal services to the client.

If the incorporated legal practice would not (but for this section) be vicariously liable then this section makes them vicariously liable. I have trouble comprehending when they would not be vicariously liable because my understanding is that employers will always be vicariously liable for acts, particularly dishonest acts, of their employees, at least so far as third parties are concerned. Clause 92 deals with the sharing of receipts, revenue or other income. It provides:

> (1) Nothing in this act, the regulations or the legal profession rules prevents an Australian legal practitioner from sharing with an incorporated legal practice receipts, revenue or other income arising from the provision of legal services by the practitioner.

Again, I am struggling to envisage where that would apply because, if an Australian legal practitioner engages in some sort of agreement with an incorporated legal practice and comes to an agreement to share income—so I assume one could have an incorporation almost in partnership with an individual practitioner who is not a part of the corporation—it makes it an offence to engage as an officer or employee of the incorporated legal practice a person who is disqualified, or to make them a partner of the incorporated legal practice in a business that involves the provision of legal services or to share money that is coming in. Effectively, this ties back to a clause with which I dealt earlier. It will make it harder if someone is disqualified—and it will be somewhat clearer who is a disqualified person—and it will make it much harder to sidestep the provisions about disqualification and, effectively, allow that person to engage in practice and receive the monetary benefit of engaging in practice. Indeed, as well as a $50 000 maximum fine—which is the common fine throughout this piece of legislation—it provides that a legal practitioner director of an incorporated legal practice who fails to ensure that these things do not happen is subject to unsatisfactory professional conduct or professional misconduct and, therefore, to disciplinary proceedings to have their name removed from the roll.

In relation to an audit of an incorporated legal practice, we all have understood the term 'audit' up until now to refer to the checking of a firm's books, particularly a firm's trust account. Traditionally, the term 'audit' has been used with respect to trust accounts. What will happen now is that the term 'audit' will not relate to trust accounts. What relates to trust accounts will be investigations and examinations. The term 'audit' is a much broader term and that is where it will become a much bigger imperative on the Law Society to have a much broader approach to how it assesses legal practices.

Clause 94 specifically deals with the audit of incorporated legal practices. It provides that the Law Society may conduct an audit of the compliance of an incorporated legal practice (and its officers and employees) with the things about which I have just been talking. It can check whether an incorporated legal practice has been doing all the things it is supposed to do under this part or under the regulations or legal profession rules as far as they relate to incorporated legal practices. It can also conduct an audit of the management of the provision of legal services by the incorporated legal practice, including the supervision of officers and employees providing the services. When one is talking about officers and employees providing the services, there are many people working in the legal profession who are not practitioners. There are paralegals, conveyancing clerks, people who take statements, and investigators. Big firms often employ people in a range of activities to undertake tasks in relation to the legal practice, but they are not by any stretch of the imagination holding them out as legal practitioners.

This audit provision will allow the society to audit or inspect and examine the provision of legal services by the incorporated legal practice and the management and supervision of those things. I believe that they will have quite far-reaching powers. It can appoint a suitably qualified person to conduct such an audit. It will not necessarily be someone from within the society (although, potentially, the society could grow to quite a massive organisation in conducting these sorts of audits): it can be a general appointment of someone in the area, or it might simply be an appointment for the specific purpose of looking at a certain aspect of a particular practice. Then that person, if they have been authorised by the Law Society, can provide a report. A report of that audit must be provided to the incorporated legal practice and may be provided by the society to the regulator or a corresponding authority, and may be provided by the regulator to a corresponding authority. So, effectively, it can go right around Australia, remembering that the definition of 'regulator' includes the Supreme Court, the Law Society, the conduct board, the disciplinary tribunal and the education and admissions council. So, there are a lot of people incorporated within that concept of a regulator.

We then have a clause that states, 'Chapter 6 applies to an audit under this Division'. Chapter 6 refers to investigatory powers. They are largely non-core provisions, but they appear somewhat later in the legislation—in fact, towards the end. Essentially, they give the society powers similar to what one sees in the Securities and Investments Commission. So, it will have people who are authorised to come into premises and demand the handing over of documents. They will basically have rights of entry and seizure and can make all sorts of demands, which currently the society does not have the power to require (and I will come to those in detail). That clause specifically states that all of the measures in relation to the powers of search and entry will apply to what we are talking about here.

There is then a provision in clause 96 for the banning of incorporated legal practices. There is an overriding provision that the Supreme Court can disqualify. Just as it has an overriding jurisdiction to disqualify an individual practitioner from practising, it can disqualify an incorporated legal practice from providing legal services in the jurisdiction, either generally or for the period that it considers appropriate, and it can put conditions on that. Action can be taken against an incorporated legal practice on any of the following grounds. The first is that a legal practitioner director or an Australian legal practitioner who is an officer or an employee of the association or corporation is found guilty of professional misconduct under a law of this jurisdiction or another jurisdiction. Theoretically, that means that, if there is a legal practitioner who is an Australian legal practitioner (so, they might be in Sydney) and that person is part of this incorporated legal practice that is practising in South Australia, and that person in Sydney is found guilty of misconduct such that they are guilty of professional misconduct, that could be a ground for action being taken against the incorporated legal practice within this jurisdiction.

The next ground is that the society is satisfied, after conducting an audit of the incorporated legal practice, that that practice has failed to implement satisfactory management and supervision of its provision of legal services and that it has contravened section 76 (and, to refresh everyone's memory, section 76 refers to non-legal services and businesses provided by an incorporated legal practice). It goes on to talk about various other things that could constitute a basis for taking action against an incorporated legal practice on a range of grounds. As soon as it is disqualified here, the regulator has to notify all the other jurisdictions. I think we will find that all of that is comprehensively covered by the idea that it is probably core uniform provisions in that area.

So, with the exception of the part that talks about these rules with respect to entry and seizure of documents, everything else that I have just been talking about is essentially part of what is called core uniform; that is, it is both central to the agreement reached by the Standing Committee of Attorneys-General, and it is to be worded in exactly the same way from jurisdiction to jurisdiction. Again, if a corporation provides legal services in contravention of the section, the maximum penalty is $50 000. I have some misgivings about that, in the sense that a corporation could be a corporation of one director, or it could be a corporation of a multinational scale that has millions of dollars at its fingertips. Just having a blanket maximum of $50 000 seems to me to be potentially a little inequitable, but I guess we will find that out as the years go by and I will probably be long gone, not only from this place but also this earth, by the time that is decided.

There is also a provision that people can be disqualified from managing incorporated legal practices. Again, it is a protection to stop this sidestepping of disqualification, which I know, at least in other jurisdictions, has occurred from time to time, where people who were not qualified were nevertheless engaged, to all intents and purposes, in legal practice, but without their having a practising certificate and without being authorised to be in practice. So, there are disqualifications with respect to people who are disqualified from managing incorporated legal practices.

There are obligations regarding the disclosure of information to ASIC (Australian Securities and Investments Commission). In fact, the disclosure can occur not only through the incorporation in accordance with its normal legal obligations as a corporation under the corporations law but through the regulator, the Attorney-General or the society. I am a bit puzzled by the reference to the regulator, the Attorney-General, or the society, inasmuch as the regulator is defined to include the society—but never mind. In certain circumstances, they are authorised to provide information to ASIC. We also have provisions for external administration proceedings under the Corporations Act. If we have external administration under the Corporations Act (that is, under chapter 5) relating to a corporation that was an incorporated legal practice, then the regulator, the Attorney and the society are entitled to intervene in proceedings and so on.

Again there are quite extensive provisions relating to how we will manage the notion that this incorporated entity will be able to practise the law but, at the same time, they have to meet their obligations as a corporation in the normal sense and as any other corporation in this country has to comply. It then goes on to talk about external administration proceedings under other legislation and the fact that an incorporated legal practice, which is subject to receivership under this act and external administration under the Corporations Act, again requires special consideration. Of course, that is one of the problems; that is, you could have a situation where, even though the legal practice is proceeding quite nicely, thank you, and everyone is doing the right thing, being a multidisciplinary corporation it is engaging in any number of other businesses under the umbrella of that corporation, and if the business goes belly up, then how will we deal with the legal practice within that business?

These provisions are largely dealing with those sorts of issues. It talks about incorporated legal practices which are subject to receivership under this act. There is a provision later on in the bill (quite late in the bill, from memory) to deal with putting in supervisors, managers, or last resort receivers of practices that are operating under this bill. There is a specific provision (which I think might be of some use, given modern communications) that courts of this jurisdiction may make arrangements for communicating and cooperating with other courts and tribunals in connection with the exercise of powers under this part. I seem to recall earlier in this parliament, or maybe the previous parliament, that we did have some special legislation to deal with the fact that modern communications are not yet addressed in much of our legislation and we are having to try to catch up all the time.

I think that that clause is probably a pre-emptive strike to say that you are authorised to talk among yourselves—and that is probably to the good. Clause 104 provides:

> The provisions of this act or the regulations that apply to an incorporated legal practice prevail, to the extent of any inconsistency, over the constitution or other constituent documents of the practice.

Regardless of what the corporation might have set up in its own constitution as to its practice, the obligations imposed on it by this legislation override the obligations relating to that document. Then there is a series of sections that similarly deal with the relationship of this bill to legislation establishing incorporated legal practice and the relationship of this bill to corporations legislation. Most importantly, though, in clause 107 we come to the issue of undue influence. Clause 107 states that a person (whether or not an officer or an employee of an incorporated legal practice) must not cause or induce or attempt to cause or induce a legal practitioner director, or another Australian legal practitioner who provides legal services on behalf of an incorporated legal practice, to contravene this act, the regulations, the legal profession rules or his or her professional obligations as an Australian legal

practitioner. Again a maximum penalty of $50 000 is imposed.

Hopefully, that will at least provide some level of protection to the director of a company who is the sole legal director of a company which is engaging in legal practice and which is operating as an incorporated legal practice but running all sorts of other businesses as well from being unduly pressured to do things. That will provide some level of protection not only because of the earlier provisions under which that person has to maintain their professional standards and meet their professional obligations but this provision also says that it is an offence for the other person (whether that be a finance officer of the corporation or whoever) to seek to make someone disobey those obligations. That person could then be up for a penalty of up to $50 000. That is the whole of the section on the incorporated legal practice.

In the time that is left tonight, I will talk about the multidisciplinary partnerships which are the other big provision in relation to this legislation. They are called ILPs and MDPs by those who have been dealing with this legislation for some time. A multidisciplinary partnership is a partnership between one or more Australian legal practitioners and one or more other persons who are not Australian legal practitioners where the business of the partnership includes the provision of legal services in this jurisdiction, as well as other services.

You could have a partnership of 20 people. You could have five who are lawyers, five who are running the gymnasium, five who are running the cafe and five who are providing financial services and they are all in a big partnership providing the business out of one or more locations. However, if they are providing legal services in this jurisdiction as well as other services and the partners (and there is a specific meaning, of course, of 'partner') comprise one or more Australian legal practitioners and one or more people who are not Australian legal practitioners they will classify as a multidisciplinary partnership.

It then points out that if the other partner is just a foreign lawyer that is not a multidisciplinary partnership. What is new about this is that an Australian legal practitioner may be in partnership in the practice of the law with someone who is not a lawyer. As I mentioned earlier, that might be anything from a mum and dad practice where one or other provides the legal services and the other provides reception and secretarial services to a huge arrangement with any number of partners. The regulations can prohibit an Australian legal practitioner from being in partnership with a person providing a service or conducting a business of a kind which the regulations might specify whereby the business or partnership includes the provision of legal services.

Again, just like with an incorporated legal practice, if you are going to set up a multidisciplinary partnership that involves the provision of legal services, first, you are going to have to notify the Supreme Court of your intention to do so; and each legal practitioner partner of a multidisciplinary partnership is (just like if they were an incorporated legal practice) responsible for the management of the legal services provided in the jurisdiction by the partnership, and they must ensure that appropriate management systems are in place and that appropriate supervision occurs, and so on.

Really, that is an identical provision to what is there for 'incorporated legal practices', but this time we are talking about people who have gone into this multidisciplinary complex with partners rather than by incorporation. Again, it spells out that they still have the same obligations relating to unsatisfactory professional conduct and professional misconduct. Again, this peculiar clause (clause 112(1)) provides:

> Each of the following is capable of constituting unsatisfactory professional conduct or professional misconduct by a legal practitioner partner:
>
> (a) unsatisfactory professional conduct or professional misconduct of an Australian legal practitioner employed by the multidisciplinary partnership;

That seems to me to be quite circular, but it does reflect what applies in the case of the incorporated legal practice. Similar to the incorporated legal practice, clause 113 provides that a partner of a multidisciplinary partnership who is not an Australian legal practitioner does not contravene this regime merely because they are a member of a partnership where the business of the partnership includes the provision of legal services (so long as they are not holding themselves out as providing them), where the partner receives any fee, gain or reward for the business of the partnership that is the business of an Australian legal practitioner, where the partner holds out, advertises or represents himself or herself as a member of a partnership where the business of the partnership includes the provision of legal services, or the partner shares with any other partner the receipts of the business of the partnership (that is, the business of an Australian legal practitioner) unless the provision expressly applies to a partner of a multidisciplinary partnership who is not an Australian legal practitioner.

On the face of it, if you do those things, it will not be a breach unless there is a specific provision saying, 'If you are not a legal practitioner you cannot do these things.' That is the same provision, basically, as what appears for incorporated legal practitioners. If you are a partner or employee in a multidisciplinary partnership you are not excused from compliance with the normal professional obligation and you do not lose the professional privileges of a practitioner. Again, there is the provision relating to conflicts of interest and disclosure obligations, which I will not go through in any detail because effectively they reflect the same provisions as appear for incorporated legal practices.

They have basically the same consequences as they do for incorporated legal practices; and similarly with the application of legal profession rules and requirements relating to advertising and the sharing of receipts and disqualified persons. There is a prohibition on partnerships with certain partners who are not Australian legal practitioners. This clause applies to a person who is not an Australian legal practitioner, that is, they are not an Australian lawyer enrolled somewhere in Australia in the Supreme Court who has a practising certificate in an Australian jurisdiction.

It applies to those people who are not Australian legal practitioners and it applies to those who are or were a partner of an Australian legal practitioner. The clause provides:

> On application by the Regulator or the Society,—

and, again, I point out that the definition of 'Regulator' includes 'Society'—

> the Supreme Court may make an order prohibiting any Australian legal practitioner from being a partner, in a business that includes the provision of legal services, of a specified person to whom this clause applies—
>
> (a) if the court is satisfied that the person is not a fit and proper person to be a partner; or
>
> (b) the court is satisfied that the person has been guilty of conduct that, if they were a legal practitioner, would have

constituted unsatisfactory professional conduct or professional misconduct; or

(c) in the case of a corporation, if the court is satisfied that the corporation has been disqualified from providing legal services. . . .

The court can make that order, it can revoke that order, and I think it can also vary that order and there can be some regulations made about those issues.

Interestingly, the clause provides that the death of an Australian legal practitioner does not prevent an application being made for, or the making of, an order under this section in relation to a person who was a partner of the practitioner. Clause 123 deals with undue influence, and is basically reflective of the provisions of the earlier clause under 'incorporated legal practices'. I will just get to the end of division 4 of part 5 and then seek leave to continue my remarks at a later time.

Division 4 (clause 124) deals with obligations of individual practitioners not affected. Again, it is reflective of what appears for incorporated legal practices; that is, that nothing in this part, except that which is provided in this part, affects any obligation imposed on a legal practitioner director or an Australian legal practitioner who is an employee of an incorporated practice; or an Australian legal practitioner partner, or an Australian legal practitioner who is an employee of a multidisciplinary partnership. It is one of the provisions that seeks to ensure that people still meet their ethical and professional obligations. But, as I have indicated all along through my speech so far, I have real concerns about how this will pan out in practice.

Interestingly, there is yet another provision for the making of regulations, that regulations may make provision for or with respect to the following matters: legal services provided by incorporated legal practices, or legal practitioner partners or employees of multidisciplinary partnerships; and other services provided by incorporated legal practices or legal practitioner partners or employees of multidisciplinary partnerships in circumstances where a conflict of interest relating to the provision of legal services may arise. If a regulation is made concerning those matters, and it conflicts with anything in the professional conduct rules, the regulation will then prevail over what is in the rules. Furthermore, the regulations may provide that a breach of the regulations is capable of constituting unsatisfactory professional conduct or professional misconduct. First, in the case of an incorporated legal profession, that could be by a legal practitioner director or by an Australian legal practitioner responsible for the breach, or both.

It could be the case that, if there is a breach of the regulations by an employee, both the employee and the director responsible for the provision of legal services—or even more than one director—in an incorporated legal firm could be held responsible. It could be, therefore, that that person is guilty of unsatisfactory professional conduct or professional misconduct; similarly, in the case of a multidisciplinary partnership by a legal practitioner who is a partner, or by another Australian legal practitioner who may be an employee, for instance, or both. Again, those provisions make it clear that there are intended to be some potential penalties landing at the doorstep of partners who have responsibility for the provision of legal services, or directors who have that responsibility in the case of incorporated legal practices.

All of the things that I have been talking about are part of the main area of the core uniform provisions sought to be inserted. That then brings us to the whole issue of foreign lawyers, so I will not start on that topic today. Instead, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

WEST BEACH RECREATION RESERVE (BOATING FACILITIES) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. P.F. CONLON (Minister for Transport): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The West Beach Recreation Reserve is an important recreation and tourist facility in Metropolitan Adelaide. The recreation facilities provide a wide range of sporting functions for the people of the metropolitan area as well as provide venues for interstate and at times international sporting competitions. These open space facilities also form part of the Metropolitan Open Space System.

The tourist accommodation facilities are award winning and provide an important economic focus for tourism in the metropolitan area. It is important that this tourist function is maintained within the park environs of the West Beach Trust land.

In more recent times an important boating facility has been established in the vicinity of the West Beach Trust Reserve. This facility provides a safe boat launching and harbour facility, car parking areas, boat storage, boat commercial facilities, sea rescue squadron, and sailing club and ancillary uses. Such facilities reinforce this area as a pre-eminent recreation centre in terms of the land and water.

In order to ensure that all of these components were properly managed and planned for in the future the land on which some of these boating and associated facilities are located was transferred to the West Beach Trust and the *West Beach Recreation Reserve Act 1987* was amended in 2002.

While the current Act clearly sets out the role of the Trust in promoting recreation and tourist accommodation facilities, the current Act does not clearly provide the Trust with sufficient scope to promote the boating and ancillary uses for the area. As a consequence the Government is introducing a Bill to amend the *West Beach Recreation Reserve Act 1987*.

This simple amendment provides a clear reference for the Board, while making sure that such activities are restricted to a designated area in order to ensure that there is a proper balance between the recreation, tourist accommodation, and boating and associated facility components.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *West Beach Recreation Reserve Act 1987*

4—Amendment of section 13—General functions and powers of Trust

The functions of the Trust will expressly include the use of the Reserve as a place where boats may be launched, moored or stored, or where any ancillary or associated services may

be provided. This use of the Reserve will be limited to an area designated by the Minister by notice in the Gazette.
Schedule 1—Operation of amendments
1—Operation of amendments
This provision will allow the effect of the amendments to operate both prospectively and retrospectively.

Mrs REDMOND secured the adjournment of the debate.

ADJOURNMENT

At 5.59 p.m. the house adjourned until Wednesday 26 September at 11 a.m.